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BOSTON, 1834

# HISTORY

OF

# MASSACHUSETTS,

FROM THE YEAR 1790, TO 1820.

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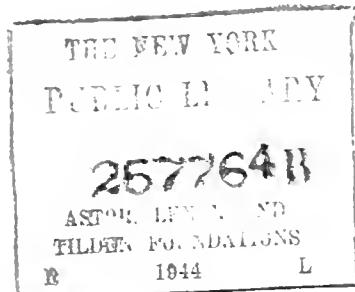
BY ALDEN BRADFORD.

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Boston:

PRINTED FOR THE AUTHOR, BY J. H. EASTBURN,  
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1829.



**DISTRICT OF MASSACHUSETTS, TO WIT:**

*District Clerk's Office.*

**BE IT REMEMBERED,** That on the ninth day of June, A. D. 1829, in the fifty-third year of the Independence of the United States of America, Alden Bradford, of the said District, has deposited in this Office the title of a book, the right whereof he claims as author, in the words following, to wit:

“History of Massachusetts, from the year 1790, to 1820. By Alden Bradford.”

In Conformity to the Act of the Congress of the United States, entitled “An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned;” and also to an Act entitled “An Act supplementary to an Act, entitled, An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books to the Authors and Proprietors of such Copies during the times therein mentioned; and extending the benefits thereof to the Arts of Designing, Engraving and Etching Historical and other Prints.”

JOHN W. DAVIS,      } *Clerk of the District*  
                            } *of Massachusetts.*

TO THE YOUNG MEN  
OF MASSACHUSETTS,  
WHO FEEL AN INTEREST IN THE PUBLIC CONDUCT  
OF THE GOVERNORS AND LEGISLATORS  
OF THE STATE,  
IN A CRITICAL PERIOD OF THE COUNTRY,  
AND WHO WISH TO HAVE A CORRECT KNOWLEDGE  
OF POLITICAL MEASURES AND EVENTS,  
AS THEY TOOK PLACE,  
THAT THEY MAY DO JUSTICE TO THE CHARACTERS  
OF THE DISTINGUISHED STATESMEN  
OF PAST TIMES,  
AND BE FORTIFIED IN THEIR ATTACHMENT  
TO CIVIL LIBERTY,  
AND TO THE PRINCIPLES OF THE CONSTITUTION,  
**THIS VOLUME**  
IS DEDICATED, WITH ARDENT WISHES FOR THEIR PROSPERITY,  
BY  
THE WRITER.



## PREFACE.

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A volume, published in 1825, brought down the history of Massachusetts to the year 1790. The relation, given in the present volume, commences at that period. The federal, or general government, had then been organized; and all political measures relating to foreign countries, to commerce, and to affairs of a national character, were regulated by the Legislature of the Union. After that period, the history of an individual State becomes less interesting and less important. Each State, however, retaining all the power it possessed, when entirely sovereign and independent, which was not delegated to the Congress of the United States, for great national purposes, much was done worthy of record, and ought to be stated, to exhibit the condition, the enterprise, the prosperity, the opinions, and the character, of the people of this ancient Commonwealth. To accomplish this, with some good degree of correctness

and fidelity, has been the object of the writer, in the present volume. And it was found necessary, frequently, to refer to the transactions and measures of the federal government, most of which affected, in a greater or less degree, the State of Massachusetts. The political condition of the latter could not, indeed, be justly and fully exhibited, without relating something of the policy and proceedings of the former.

It has been the sincere wish and purpose of the writer, to notice public occurrences and to refer to public characters, with impartiality. Whether this has been done, must be left to the well-informed and the candid to determine. The difficulty of divesting oneself of all preference or partiality, must be felt by every honest mind, on reflection. It should be the desire and aim, however, to rise superior to party views and feelings.

It is difficult, also, to do full justice to the services of all public characters. But, intentionally, to misrepresent their conduct, or to withhold the praise which is justly their due, is a moral error very reprehensible. When a bare statement of facts is unfavourable to the reputation of some citizens and creditable to others, the reproach does not justly attach to the narrator, but to the indi-

viduals who have conducted unfaithfully or unwise-  
ly. In referring to the public men, however, it has  
been an invariable desire to avoid impeaching their  
motives, or to bring into notice any defects of their  
private characters. It was thought proper to  
speak only of their official or public conduct.  
This should be fairly stated, and the reader will  
judge of motives and principles for himself.

A portion of the volume refers to periods of great  
party excitement and political strife. And it is  
therefore, possible that to some, the statements  
will appear not altogether impartial. Opposing  
opinions were entertained, both as to the policy of  
the war of 1812, and the manner of conducting it.  
And the question growing out of that war, as to  
the authority of the federal Executive and its  
officers over the militia, was considered one of  
great importance. For the rights and liberty  
of every citizen were involved in the decision. A  
particular account of the subject, so far as  
Massachusetts was concerned, is attempted to be  
given in this volume. It seems to be very impor-  
tant, that the true meaning of the Constitution, on  
this point, should be determined. A constructive  
power claimed by the national rulers and exercis-  
ed without restraint in a time of war, might affect

most injuriously the liberties of the whole people. And, of a doubtful power, which operates as an abridgment of the rights and a diminution of the comfort and happiness of the people, they will always complain. The necessity of confining the authority of the federal government, and especially of its individual officers and agents, to the letter, or to the plain natural meaning of the Constitution, cannot be too often, nor too strongly urged. As it would be paralyzing to public agents to deny them the exercise of power clearly delegated or fully implied, so, on the other hand, it will be fatal to the liberties of the citizens, if rulers may transcend the authority given them, and assume power according to their own caprice or wishes.

This question, as to the extent of the power of the federal government over the militia, and the propriety of the conduct of the rulers in Massachusetts, who declined placing them in the service of the United States, as was required by national officers, gave occasion to much discussion and excitement. It has appeared proper, therefore, to give a particular statement of the opinions expressed, and the proceedings had, at that time, on the subject. Perhaps, it will be considered, that the statement is unnecessarily minute; and, that the

reflections might have been well spared. Still it must be remembered that the transactions are legitimate materials for history ; and as to the reflections, they will be received only according to their relevancy and reasonableness. If the writer has any feelings of partiality, they are in favor of those patriots, who advocate and contend for the constitutional liberty of the people ; and if he has any prejudices, they are against those only, he trusts, who change their principles and their conduct when they attain to places of power, and assume authority not given by the constitution, and the exercise of which in others they had loudly condemned.

The writer had some doubt of the propriety of continuing the history to so late a period ; as some living characters are brought into view. But precedents may be found to justify this, both in America and in Europe. The life of Washington, by Judge Marshall, was published, while many prominent characters mentioned, were living. And this remark applies also, to the history of the insurrection in Massachusetts, 1786, by Judge Minot. It may be said, also, that the characters given of Governors Strong and Brooks are more in

the style of the eulogist than of the impartial historian. But it was impossible to do them full justice, either as public agents or private citizens, without speaking of them in terms, which, to those who know not all their worth, may appear to be exaggerated praise. They were of the party, formerly called *federal*, and yet they could not justly be considered party-men, in the common acceptation of the term. They fully approved of the policy and measures of WASHINGTON: and their great desire and object were to conform to his political principles.

A more pregnant wish for the welfare of the Commonwealth, it is believed, cannot be expressed or cherished, than that all future chief magistrates may be as able, as patriotic, as virtuous and as faithful as they were. And such a wish, the writer begs devoutly to offer.

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HISTORY  
OR  
MASSACHUSETTS.

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CHAPTER I.

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NO STATE in the Union, probably, was more immediately and substantially benefited by the federal government, formed in 1789, under the constitution adopted the preceding year, than Massachusetts. The prosperity of all the States composing the confederacy, was, indeed, soon and greatly aug-

mented, by the exercise of the new powers granted to the legislature of the nation. Previously to this period and to this extension of the power of the federal government, both the commerce and the finances of the country were in a state of great embarrassment and depression. In consequence of the very limited authority of Congress, under the old confederation, there was no efficient, uniform system through the United States, either of municipal law relating to navigation and trade, or of commercial intercourse with foreign countries.— The interests of commerce suffered exceedingly, both from want of uniform laws through the States, and from the inability of the Old Congress to enforce its recommendations. The trade of the United States with foreign nations was thus subject to very serious embarrassments and disadvantages.

The immense debt of the States, respectively, and in their collective, united character, was calculated, also, to alarm and discourage the people. The most intelligent acknowledged the difficulty of restoring the credit of the country; and the most patriotic were ready to despond. At the close of the war of the revolution, the continental or national debt was upwards of \$42,000,000; And every State had a large demand on the United States on account of services for the common defence, which amounted in the whole to \$25,000,000.— Each State was indebted, also, for expences incurred for its own particular, immediate protection, during that critical period, to a large amount.— The failure, for several years, to pay the interest on the public debt, except as to a very small part, had consequently increased the financial delinquencies of the State and nation. In 1790, the debt of

the United States amounted to \$54,000,000, even before assuming those of the individual States, which had accrued for expences for the common defence. The debt of Massachusetts, at this period, was very nearly \$5,000,000, without taking into the estimate, the liability to pay the demands of those who held the paper money, emitted during the revolutionary war. The resources of the State could not be made available to discharge such a large amount. For several years even the interest on the debt of the Commonwealth, like that of the nation, had been omitted to be paid. Notes were issued for interest, to the public creditors; and sold, by those who were not very opulent, at a great discount.

At the session of 1790—91, Congress assumed \$21,510,000 of the debts of the several States, which were considered to be properly chargeable on the United States, to be provided for by the federal government, as it had the whole controul of the revenue arising from the commerce and navigation of the country. This sum was apportioned among the States according to the expences of each, respectively, which had been incurred in the course of the war, for the common defence, in compliance with requests and recommendations of the Old Congress. The amount thus assumed of the debt of Massachusetts, was \$ 4,000,000. The Legislature prayed the federal government to assume the residue of the debt of the State, which was of this character. This was not immediately done; but Congress soon after appointed commissioners to ascertain the amount expended by the several States, in prosecuting the war of the revolution; and it was found, that Massachusetts had disbursed

sed, or incurred debts, to an amount of \$18,000,000 ; of this, \$2,000,000, had been paid or advanced by Congress, during the war ; and \$4,000,000, had been assumed by the federal government. Between the sums advanced by each State, or for which they were liable, and the amount of their proportion towards the whole expenses of the war, according to an estimation officially made, balances were struck ; and six States were found to have advanced more than their proportion, and seven less. The largest balance was in favour of South Carolina. Massachusetts was the next highest of the Creditor States ; and a balance of \$1,250,000, was credited to the State accordingly. It results from this statement, that Massachusetts, in fact, bore the expenses of the war of independence to the amount of \$11,500,000. But still in 1790, her debt was only \$5,000,000 ; for, during the war, by great effort and sacrifices, many expenses were, annually, paid.

The State of Massachusetts, as well as some others, had attempted to raise a revenue, by means of an excise on various articles of consumption or use, chiefly on such as were considered a luxury ; and a considerable amount was thus collected, to meet the public exigencies of the times. On the recommendation of the Continental Congress, in 1785 and 1786, the Legislature consented, that duties might be imposed, by that body, on imported goods, for the purpose of paying the debts of the Nation. But some of the States declined giving such power to Congress ; and the commerce of the country was in a condition, which yielded little profit to the merchant, and still less to the government.

It was in this unhappy condition of the country, that a proposition was made, as stated in a former volume, to enlarge the powers of the Continental Congress, particularly, as to commercial concerns; so that the trade with foreign nations might be better regulated, and prove more beneficial in its results. It may be difficult to determine, in which State in the Union, this measure was first proposed or suggested. But it is certain, that Governor Bowdoin, in June 1785, recommended to the General Court of Massachusetts, that the powers of Congress be increased, for the purpose of a general and efficient regulation of the commerce of the country, and of providing for the certain and speedy payment of the national debts.\* A committee of four eminent citizens was chosen to attend a meeting of delegates from the other States, to be holden in Maryland; but it does not appear that any of the Committee of Massachusetts attended the Convention. As it recommended, if it did not originate the plan of a more general convention, which was soon after approved, this meeting was an important one. The Continental Congress, under the confederation, had also urged the measure. For they found their powers not competent to adopt all proper measures for the prosperity of the country and the protection and encouragement of commerce, without the consent of the Legislatures of the several States in the Union.

The first object of the federal or general government, which was organized in April, 1789, was to establish the credit of the United States, by im-

\* See former vol. pages 253, 309.

posing duties on all imported goods and products from foreign countries, and by making laws to regulate the commercial intercourse between this and other nations. This was effected with equal intelligence and promptitude. And the advantages of this new political order of things were seen and acknowledged by all. With an extensive sea-coast, including many ports and harbours, and with a large portion of its population, accustomed to commercial and nautical enterprises, Massachusetts felt the happy change fully equal to, if not more than any other State in the Union. As her commerce was extended and protected, the labours of all other classes of her citizens were encouraged and rewarded. The mechanic found constant and lucrative occupation; and the farmer was amply compensated for the fruits of his industry.

The common class of citizens in Massachusetts, who have always sustained a high character for practical wisdom and good sense, as well as most of her eminent civilians and public characters, were decidedly in favour of the federal constitution; which, as has been stated, gave new and greater powers to the general government. They had long been sensible of the evils arising from the want of authority in the Continental Congress; and they rejoiced to find, that their early experience of its benefits fulfilled the favorable predictions which had been made of the blessings to flow from it. The mechanics, particularly, whose employments were greater and more profitable in proportion to the enterprise and prosperity of the merchants, ranked among the most zealous friends and supporters of the new federal government. They

soon realised many of the advantages which they had anticipated from its operation ; and they looked forward with sanguine hopes, to a period of still greater prosperity and wealth. Indeed, a new impetus was given to business of all kinds. The people generally, were enabled to pay their debts, and the State to raise its credit, with all who had demands upon it, from the low ebb, at which it had long been depressed.

There was, however, a portion of the citizens in the State, who were dissatisfied with the federal constitution, and with the early acts of the general government. Many of these no doubt, were honest and patriotic in their motives, however mistaken they might have been in their opinions on the subject. They feared, that the great and extensive powers, delegated by the federal compact to a national Legislature, would be abused, or exercised in a manner inconsistent with the rights and authority of independent, sovereign States. At that period even, some very able and upright politicians entertained high notions of State authority ; and believed, that the liberties of the people depended, in a great measure, upon the maintenance of the state governments in all their power. They were apprehensive, that the general government, being paramount to that of any individual State, would be disposed to assume and exercise authority not delegated, and thus lead to a consolidation of the Union, rather than remain a mere confederacy of independent States. It was also objected to the federal constitution, that such a principal and controlling government was not intended as had been proposed and adopted ; the design, in calling the convention which framed and recom-

mended it, having been only to amend or alter the articles of the old confederation, so as to provide for the regulation of foreign commerce, by the Continental Congress, that the system might be uniform and efficacious; and a revenue thus collected to discharge the debts of the nation. Such, undoubtedly, were the views and intentions of the people, when the convention was called, which framed the federal constitution. It was intended only to give the Continental Congress full and ultimate power to regulate commerce with other countries, which could be better done by a national Body than by the legislature of thirteen separate States; and to conduct and legislate on such concerns of a general or national character, as the welfare and prosperity of the whole United States required; but which, in their separate and individual capacity, they were not competent to do with effect.

Notwithstanding the assumption of a part of the State debt by the federal government, the taxes were high in Massachusetts, for the year 1790, 91 and 92; owing chiefly, indeed, to the arrears of those imposed from 1784 to 1790. They had accumulated, to a great amount; and those who were delinquents for the taxes paid before 1790, still complained loudly of the public burdens. The voice of complaint, however soon died away; for industry and economy enabled the people generally, to pay off old demands; and at the same time, to meet new taxes and expenses with more prompt payment, than they had the means of doing for many previous years.

Owing to the embarrassment on commerce and to the exigency of the times from (1786 to 1790)

it might have been good policy to exercise much forbearance, in calling for the payment of taxes, which were assessed upon the people. But in 1791, the arrears of taxes must have amounted to very large sums, to justify the legislature in imposing only a tax of \$100,000.\* For the debt was constantly increasing, while so small a sum was raised for the public treasury. This amount was not sufficient to pay the interest of the debt, and to meet the ordinary expenses of the government. Such a policy is incompatible with the permanent prosperity of a State. But at this time an expectation was cherished of obtaining large sums from the sale of public lands in Maine: and a lottery was granted by the Legislature, to raise money for public purposes. Very little, however, was realized by this system of speculation. Governor Hancock, had the wisdom and firmness to discountenance this mode of raising money; and the General Court soon became satisfied of its impolicy and impropriety. At this period, the credit of the general government was better than that of the State. Congress adopted an efficient plan, for the gradual payment of the national debt, and for paying the interest with certain punctuality. Massachusetts had matured no such financial system. The paper of the State was still offered in the market, at a sum far below the nominal value, though not so low as in 1786 or 1788. For the interest was not punctually paid; and no means could be calculated upon with certainty to pay the principal at

\* Boston paid, at this time, an eleventh part of the whole State tax. At a later period, it has contributed a much larger proportion of the tax of the Commonwealth

any stated time. The Commonwealth was not indeed, without resources; but large sums could not be raised on the credit of the State, without great sacrifices. The public lands in Maine, on which the calculation chiefly depended, it was generally believed, would rise in value, if not thrown into the market for several years; but in 1790 and 1791 they would not command a price sufficient to reimburse the expense of locating and selling. The Governor, repeatedly, urged the legislature to provide more effectually for discharging the debts of the State, and for paying with punctuality the demands of the public creditors.

In doing this, he did, indeed, but perform his duty, as the guardian of the welfare and honour of the commonwealth. But the immediate Representatives of the people, either differed from him in opinion, as to the means of discharging the public debt within a short period; or were more indulgent and forbearing towards their fellow citizens. It has already been stated, that only the usual tax was granted. The great excuse was founded in the expectation of relief, by receiving Stock of the United States and payment on lands sold in New-York; which would be appropriated to satisfy the creditors of the Commonwealth.

In 1787, after the Insurrection in the State was quelled, chiefly through the firmness of Governor Bowdoin and the bravery and prudence of General Lincoln, Mr. Hancock was elected Governor, as mentioned in the last volume; and he was, thereafter, successively, chosen in 1788, and 1789. He was again elected, as chief magistrate for 1790; and for 1791, 1792 and 1793, in the last year of which, he died. He had personal and political enemies. But such was his hold upon the affections and

gratitude of the great body of the people, that all efforts to supercede him and place any other citizen in the chair of State were ineffectual. He had some minor faults, all admitted; but they were forgotten or obscured by the sense of his uniform and ardent patriotism, and his singular sacrifices for the liberty of the country in the most critical periods of the war. It was, perhaps, a just charge against him, that he sought popularity at the expense of consistency; and that, on some important occasions, he was deficient in the firmness, which characterised a Bowdoin, of that, and a Strong, of a later period. But of the motives of public men, it is difficult always to judge correctly: and when a man has done and sacrificed much for the good of his country, his memory should be cherished with gratitude and respect.

Mr. Hancock was an advocate for the federal constitution, though not so great an admirer of it, as to consider it incapable of amendment. It was through him, publickly at least, that the proposition was made to the convention in Massachusetts, by which it was adopted, for the addition of several articles, if other States should approve of them: and, without that proposition, it is not improbable the vote would have been against the constitution, in this State. On several public occasions and in his official capacity, Governor Hancock, spoke with approbation of the federal government, and declared his readiness to support it. But he was of that class of politicians, who, at that period, objected to the great powers given to Congress by the constitution, and who contended for the authority and rights of the separate States, to such an extent as to leave little for the general govern

ment to do, except to provide for the national welfare and defence in those cases, for which a single State was not adequate, nor had the power. These views were expressed by him in his public speech to the Legislature, in June 1790. "We shall best support the federal system," he observed, "by maintaining the constitution and government of our own State; upon which, with those of the other States of the Union, the federal government is founded. It must eventually stand or fall with the state governments. The federal government may indeed, by absorbing the powers of the state governments, change its nature, and become a different system from what it was intended. But to maintain it, as it now is, will be best effected, by maintaining them in their respectability and just authority." In the same speech, he recommended to the people to cherish a favourable opinion of the new national government; and expressed a belief, that it would prove beneficial to the United States. At the same time, he suggests his fears lest the general government should assume powers, which it could not justly exercise—and adds, "the constitution is a law to the national legislative authority itself."

Samuel Adams, who was Lieutenant Governor at this time, had similar views with Governor Hancock, respecting the federal government, and the powers which it might justly exercise. He joined with Mr. Hancock in the state convention in the proposition for amendments to the federal constitution, the general object of which was to guard the rights of the States, and prevent the national government from assuming powers not already delegated to it.

When he appeared before the two Houses of the general assembly, June 1790, to be qualified as Lieutenant Governor, by taking the oath of office he thus addressed the President of the Senate; “I shall be called upon to make a declaration, and I shall do it most cheerfully, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State,—I shall also be called upon to make another declaration, with the same solemnity, to support the constitution of the United States. I see no inconsistency in this. For it must be intended that these constitutions should mutually aid and support each other.”

In his official address to the Legislature, just referred to, Governor Hancock urged the adoption of measures for supporting the credit of the State, and for paying the public debt, which was principally due to those who had rendered important services or made great sacrifices for the liberty and independence of the country. “The price of our freedom,” he said, “had been great toil and expense; and we yet feel the weight of it. But we feel as freemen; while the people of other countries are oppressed with heavy burdens, accumulated not to secure, but to destroy their freedom.” On this occasion, the Governor also expressed a hope “that care would be taken to diffuse useful knowledge and to inculcate the social and moral virtues, which were the foundation of public and private happiness.” He likewise recommended the appropriation of lands in the District of Maine, for the support of schools and of the gospel ministry, in that part of the State; and advised to a grant for the University at Cambridge, whose

funds were then inadequate to a proper support of the Instructors.

The first census of the people of the United States, after the war of the revolution, was this year (1790) taken by order of Congress, which gave, for Massachusetts, 478,000 ; 100,000, of which were in the District of Maine, and 378,000 in Massachusetts proper. Not a single slave was then returned from the State ; the only one, at that time, which did not contain many.

In 1790, William Cushing, Chief Justice of the Supreme Judicial Court of Massachusetts, was appointed a Judge of the Supreme Court of the United States ; and was succeeded by Judge Sargent, who had been one of the Justices of the Court for several years. On the death of Judge Sargent in 1792, Francis Dana, an associated judge, was appointed Chief Justice. The other Justices of the Supreme Judicial Court at this period, were Robert T. Paine, Increase Sumner, Nathan Cushing and Thomas Dawes.

In 1791, great efforts were made to repeal the statute prohibiting theatrical entertainments. Some of the citizens of Boston were among the most active in this object, though many of the most distinguished and worthy characters of that town were opposed to the repeal. A petition was then before the General Court for the establishment of a Theatre in Boston ; and it was understood, that if the existing law against theatrical exhibitions and plays was repealed, they would become very frequent in the town, and a Building for the purpose would be erected. The aged people generally had strong objections to a licensed theatre : For they considered most plays of an im-

moral tendency, and the actors to be frequently of dissolute characters. Those who were in favour of a Theatre professed to believe, that such plays only as were chaste and correct in their sentiments would be presented; and that, under proper regulations, the amusement would be more rational and improving than some other recreations in which many indulged without censure. There were several meetings of the citizens of Boston on the subject. It was proposed, that the town should express an opinion in favour of a Theatre and instruct their Representatives to advocate it. The proposition, was opposed by Samuel Adams, Benjamin Austin, Jr. Thomas Dawes, Jr. and H. G. Otis; and supported by William Tudor, Charles Jarvis, Perez Morton, and several others.

An action was, this year, tried in the County of Bristol, which excited considerable interest, and manifested the feelings and sentiments of the people in the commonwealth, on the subject of the Slave Trade. Long before this period, slavery had ceased to exist in Massachusetts, in any form. Nor were any of her citizens known to be engaged in the disgraceful business of purchasing and transporting Africans for slaves; Though some merchants in the adjoining State of Rhode Island were suspected of being concerned in this inhuman traffic. About this period, a vessel was partly equipped at Boston, in Massachusetts, evidently intended for an enterprise of this kind; and two citizens then resident in the State were supposed to be concerned in the undertaking. In this belief, the owner and captain were prosecuted, and charged with a violation of the laws of the Commonwealth, in so doing. Eminent counsel were em-

ployed in the cause on each side ; but the respondents were convicted before the Court of Common Pleas, and afterwards, on an appeal, before the Supreme Judicial Court of the State ; and fined 200*l.* the penalty imposed by the statute, on such as were engaged in the Slave Trade. The principal defence was, that the owner and captain were not citizens of Massachusetts, and might also be prosecuted and fined for the same act in Rhode-Island, to which they belonged—But the statute used the term *resident*, as well as citizen ; the vessel also was fitted out in Boston, and the owner was some time present while she was in preparation for the voyage. Howell and Dawes were counsel for the Captain and owner, and Channing and Bradford, for defendants.

In the course of this year, the Commonwealth derived funds, to the amount of one hundred thousand dollars, from the sale of lands, in the interior of the State of New York, on and near the Genesee River. The State had claimed the right to a large territory ; but a part had been ceded to the United States, and a part sold some years before. This tract was claimed by virtue of the early patent to the company of Massachusetts Bay, by Charles 1. which extended west, a certain width, to the great western ocean, according to the construction some put upon the instrument. The Dutch, having visited and settled the land on the Hudson River, to a certain extent, previously to the grant to the Massachusetts company, it was permitted them to hold those parts, and thus to divide the territory claimed under the charter of Massachusetts. On settlement of the question respecting the disputed territory, a large tract was

allowed to belong to this State, in the interior of New-York. It was only the pre-emptive right, however, which the State could sell. For the native Indians, then numerous in that section of the country, were acknowledged to have a right to the soil ; and this right was to be extinguished by the purchaser of the State, by satisfying the Indians for their claims before he had a full and complete title to the land. This indeed, usually, required but a small sum. For so late even as the time here referred to, the aborigines of the country valued their lands at a low rate.

A proposal was again made, during this year, for a Canal across Cape Cod, in the extreme western part, near where the Cape commences ; for the purpose of uniting the waters of Buzzard's Bay, on the South West, and of Barnstable Bay, so called, on the North East. The peninsula is narrow, in this part, and large creeks or brooks extend from each Bay, so as to approach very nearly together, and thus afford great facilities for constructing a Canal. The plan had been, frequently, before suggested ; and it was the opinion of many, who had considered the subject, that it would prove highly useful to the interests of navigation in the State. A committee was appointed, by authority of the Legislature, to survey the grounds, to ascertain the practicability of a Canal, and to report as to its expediency and advantages. The committee was also authorised to make surveys at any other place on the Cape, for this object. They reported in favour of the plan, and made an estimate of the probable expences attending its execution. But the work was not prosecuted. For some intelligent men had doubts of its

utility ; particularly at the season of the year, when such a passage would be most needed ; and the State was not, then, in sufficient funds, to engage in an expensive work, but of most evident necessity or importance.

This period, (1791 and 1792,) may be considered as the commencement of a system of internal improvements, in Massachusetts. Several turnpike roads were now projected ; and some were completed with all proper dispatch. The public roads were also from this time greatly improved in most parts of the State, at the cost and labour of the several towns, through which they passed. A commendable spirit prevailed in all sections of the commonwealth, for this purpose ; and the industry of the yeomanry was divided between his own immediate personal benefit, and the accommodation of the public. In the course of a few years, a great and favourable change was made in the country ; and turnpike roads were constructed in various directions.

The advantage was also foreseen, at this time, which would result from having a more cheap and easy way of travel, from the western and middle parts of the State to the metropolis, the great seaport of the Commonwealth. A canal was then contemplated from Boston to Connecticut river, and even to the Hudson. General Henry Knox and General David Cobb were among the most zealous in this project. But, though the resources of the country were beginning to be developed, and prosperity attended the labours and enterprises of the citizens, there was not a general disposition in the community to engage with ardour and effect in an enterprise of such magnitude. It was but a

short time subsequent to this, however, that the Middlesex Canal in Massachusetts was projected ; and, through the energy and perseverance of a few intelligent men, was finally constructed ; The most active, in this novel and important undertaking, were Hon. James Sullivan, Loammi Baldwin, the Sheriff of Middlesex County, and Hon. James Winthrop.

November 1792, there was an extra session of the General Court, which was held at Concord, on account of the small pox in Boston, the capital of the State. A great portion of the inhabitants were infected with this disease ; and the people from the country towns were unwilling to reside in or to visit the metropolis. The kine pox, as a mild substitute for the varioloid, was not then known in the country ; and there were few, comparatively, of the inhabitants who were not subject to this malignant and fatal malady. The principal business of this extra session of the Legislature, was to complete the College or Board of Electors of President and Vice President of the United States. The mode of choosing these, as well as the Representatives to Congress had been prescribed at the Session in June, and was as follows :—four districts were formed : the first, composed of the counties of Suffolk, Essex and Middlesex, was to elect four Representatives, one at least to reside in each county : The counties in the old colony, so called ; viz. Plymouth, Bristol, Barnstable, Dukes-County and Nantucket, to be a district, and to choose two : Hampshire, Worcester and Berkshire to make another district, and choose four : The counties in Maine to choose three. The district for choosing Electors were the same as for Representatives, and were to vote

for the same number, except that the district composed of the counties of Suffolk, Essex and Middlesex, and that composed of the counties of Hampshire, Worcester and Berkshire, chose five Electors each.\*

It was then generally admitted, that while the Legislature had the constitutional right to prescribe the *mode* of election, the people themselves were to choose not only the Representatives but the Electors of President and Vice President. It was also considered most correct that the State should be divided into districts, for the purpose, as the citizens would, in such case, be better acquainted with the persons, for whom they gave their votes. In later times, the mode of choosing Electors, especially, has varied; sometimes being by a general ticket through the whole State, and sometimes even by the Legislature itself; and there is reason to apprehend, that party views have had an improper influence in the adoption of these different modes of election.

In his speech to the General Court, at this Session, Governor Hancock expressed his disapprobation of the terms used in the law of Congress, which prescribed the mode of proceedings to be observed by the Executive of a State, in recording and notifying the choice of Electors. The terms of the law were imperative upon the Chief Magistrate of each State; and the Governor was of opinion, that the word “*shall*” was improper to be used with reference to the duty or conduct of the Supreme Executive of an Independent State.

\* The General Court was to fill up vacancies, if there was no choice by the people. And the Session at Concord, at this time, was for that purpose.

The law required the Governor to make three copies of the votes of the Electors of President and Vice President, and he contended that this should have been left to the judgment and discretion of the Chief Magistrate. There is no evidence that the General Court echoed these sentiments of the Governor. Perhaps, they did not attach any great importance to the circumstance. The law, probably, was intended only to prescribe a uniform and convenient mode of ascertaining, with accuracy and without failure, the state of the votes through the union. But Governor Hancock was one of that class of Republicans, by whom the undue assumption of power by the federal Government was apprehended, as a dangerous precedent, and calling for prompt and explicit remonstrance from the state authorities.

In his speech to the Legislature, January 1792, the Governor condemned public whipping and cropping for theft ; and recommended confinement to hard labour, as probably a more salutary as well as a more humane punishment. He expressed the opinion also, that capital punishments should be few.

There was a disposition generally manifested in the community, at this time, for an amelioration of the criminal law. Confinement to hard labour had already been substituted, in some cases for disgraceful punishments in public. An experiment of this kind was made on Castle Island, in the harbour of Boston. And the State Prison, or Penitentiary, at Charlestown, was soon after built.

A law was made, at this time for the due observation of the Lord's day, or Christian Sabbath. It was indeed but a re-enactment of former laws,

which had been in force from the early settlement of the country. The provisions were not so severe, perhaps, in prohibiting all kinds of secular employment ; but the act forbid travelling on business, all traffic and keeping open of shops and stores, and all public recreations under a penalty or pecuniary mulct. But the law was frequently disregarded, and very few cases of complaint or punishment occurred under it. It was evident that human laws would avail but little in enforcing a due regard of the Sabbath, or inducing men to attend religious worship. True religion is not promoted by compulsion ; and yet it may be proper for the civil authority to interdict public recreation, and all business of a merely worldly nature except necessity could be pleaded as an excuse.

During the year 1793, the last of Governor Hancock's administration (for he died in the month of October, in this year,) a suit was brought against the Commonwealth, by one *Vassal* an alien, though a native of the State, who left the country at the beginning of the revolutionary war and retired to England. The action was brought in the federal courts, by which it was sustained. A summons was issued, and served upon the Governor and upon the Attorney General, as principal citizens of the State, by the Marshall of the United States. The Governor denied the jurisdiction of the Court ; or rather the liability of the Commonwealth to answer to a suit in any Court. He, therefore, called a special session of the Legislature in September of the year above named. He referred to the case and gave it as his opinion, that the State could not be compelled to answer to a civil suit, as it would be in-

compatible with its sovereignty and independence. The subject was discussed in the General Court for several days. Some members of respectability were of opinion, the State might justly be sued, as well as any corporation or company, because it was equally obligated to do justice ; and if it refused, should be compelled to it.

But a large majority of the Legislature expressed a different opinion. They agreed with the Governor, that a compulsory civil process against the State was utterly inconsistent with the attributes of sovereignty : and they, therefore, adopted a resolution, “ that a power claimed, or which may be claimed of compelling a State to become a defendant in a Court of the United States, at the suit of an individual or individuals, is, (in the opinion of this Legislature) unnecessary and inexpedient ; and, in its exercise, dangerous to the peace, safety and Independence of the several States, and repugnant to the first principles of a federal government.” A resolve was also passed by the general court, at this time, requesting the Representatives and instructing the Senators of the Commonwealth, in Congress, to use their efforts to obtain an amendment to the constitution of the United States, with a view to remove any article or clause thereof which could be construed to justify a decision, that a State was compellable to answer in a civil suit, before any Judicature of the United States. An article was soon after added to the federal constitution, in conformity to the spirit of the foregoing resolution.

The death of Governor Hancock\* soon followed this patriotic act, and produced a great sensa-

\* He died at the age of 58.

tion through the Commonwealth. There were, indeed, many other great and good characters in the State; men of equal talents and patriotism; and no one could justly fear that the public interests would suffer. But he had been long known as a public character; was popular and courteous in his manners; hospitable and generous to individuals; and had given many noble proofs of devotion to the liberty and welfare of the country. His death was therefore deplored, as a great public loss; and the respect manifested by the people, for his memory, was gratifying both to his political and personal friends.

In the summer of 1793, a very malignant and mortal fever prevailed in Philadelphia. Business was almost entirely suspended for two or three months, and the sufferings and distresses of the people were very great. The *citizens of Boston* manifested their accustomed humanity and kindness on this occasion, by making contributions for their relief.

## CHAPTER II.

Lieutenant Governor Adams Chief Magistrate on death of Governor Hancock....Elected Governor in 1784....Extract from his Public Speech.... French Revolution....New State House....Political parties....Treaty with Great Britain....Great opposition to the treaty....Violence of parties.... Governor Adams favours the conduct of the French Rulers....Public Schools....Choice of Electors in 1796....Governor Adams declines a re-election.

After the death of Governor Hancock, Samuel Adams, who was at the time Lieutenant Governor, occupied the chair of Chief Magistrate during the residue of the civil year: and, in 1794, was elected Governor, by the suffrages of the majority of his fellow citizens. Mr. Adams, was one of the most sincere and firm patriots in the State, and a most efficient advocate for the rights and liberties of the country. It has been even said by some, that he was the *first* in the resolute band of patriots, who contemplated and effected the Independence of the United States. On many occasions he was as decided and influential as any one in the State; and he was always consistent and unwavering in his course. But it may be more, perhaps, than can be justly said of any *one* man, to assert, that he was the most efficient of all; or that the revolution would not have been achieved without him. Mr. Adams had qualities, such as the times required; and as a stern, unde-

viating republican, he yielded to no one in the nation.

When Mr. Adams was chosen Governor, he was far advanced in years, having reached the age of seventy three. But he continued Chief Magistrate of the Commonwealth for three years, when he declined the suffrages of his constituents, and retired from the cares and responsibility of political life. The infirmities of age, he said, admonished him, that it was proper for him to resign all public duties.

The French Consul, resident in Boston, under the influence and direction of the Minister of that Nation, near the American Government, was chargeable with improper conduct, in taking a vessel by force from the civil authority, which he claimed as a prize to a privateer of his nation.—He was therefore removed from his office by General Washington, then President of the United States. His successor complained to Lieutenant Governor Adams, (November 1793,) of the conduct of the President, as arbitrary and unjust. He addressed the Lieutenant Governor, as “Citizen Adams;” and the language of the letter, generally, was not only very familiar, but indecorous. Most of the citizens, were indignant at the conduct of the French Consul; but the Lieut. Governor took no public notice of it. Perhaps, he considered the letter unworthy of a reply.

During the administration of Governor Adams, the people of the State and Nation were much agitated by the French Revolution, which, in 1794, had reached a crisis, that threatened the peace of the whole civilized world. The French Minister to the United States made unjust demands upon

the government, and attempted to exercise powers within the jurisdiction of the Nation, which were at once improper and mischievous; and when these were opposed, as they were by the prudence and wisdom of President Washington, he appealed to the feelings of the people, in behalf of republican France, for whose freedom and prosperity all Americans had a lively interest. The claims and conduct of the French Minister were calculated to endanger the peace of the country; and to expose the United States to all the expenses and evils of an European war. This, Washington foresaw; and therefore, refused the aid of government, to the projects of the Minister, which would have soon produced such a great national calamity. His policy was very generally approved by the citizens, although they cherished a grateful sense of the support afforded by France, in our struggle for Independence, and gave their warmest wishes for her success, in all attempts to establish a free government. But a portion of the people, from a mistaken opinion of the views of the leading characters, in the French nation, (who, probably, had little regard for republican freedom,) or, from an ardent love of civil liberty, in every form, disapproved the conduct of the federal administration, and justified the proceedings of the Minister, in his attempts to engage the United States to assist the agents and Nation of France.

This difference of opinion was the occasion of political disputes and party feelings, which disturbed the peace of the nation, for several years. It was, indeed, one of the chief causes of the two great political parties, into which the citizens of the

whole United States were, unhappily divided, for many years, subsequently to this period.\*

Those who were the great admirers and supporters of the federal constitution, and of the federal government, as administered by Washington and his associates ; those who approved of his neutral policy, when urged by France, 1793 and 1794, to make common cause with her, in a war against the rest of Europe ;—were accused of being in favour of a “strong” government, rather than of one truly republican ; and even of leaning to monarchy, in preference to democracy : while those who condemned and opposed his measures, in refusing aid to the French agents, to carry into effect their hostile views towards Great Britain, and who applauded the irregular proceedings of the revolutionists of France, on the other hand, were considered political levellers and enemies to the just authority of

\* In the early periods of the French Revolution (1791—1793) the people, generally, in Massachusetts, and through the nation were in favour of the social and political reform, which it was then expected would take place : and rejoiced in the prospect of the speedy enjoyment of civil liberty in that kingdom.—Feastings were had in many places, on the occasion, in which citizens of all classes united, to manifest their joy for a regenerated nation, which had long been governed with despotic sway. At some of the festive meetings the behaviour of the Clergy and of grave Senators, approached almost to the ludicrous : It would certainly be difficult to reconcile it to that dignity of deportment, which is proper to be maintained in society. The clergy, in many places countenanced these extravagances and this enthusiasm of the people by their presence, and sanctioned them by devotional exercises. At a great feast in Boston in 1793, in Faneuil Hall, the cradle of American Liberty, the Lieutenant Governor, a truly grave and religious man presided ; and, when he had occasion to address the servants who attended upon the company, used the familiar language of “citizen Cuff,” or “citizen Cate ;” and was addressed, in return, with the same familiarity “citizen Adams, what is your desire.”

government. It was pretended by those of the democratic party, but without evidence or reason, in the judgement of the most moderate and impartial citizens, that the national rulers were desirous to conciliate the British Government, even at the price of a surrender of our commercial and maritime rights ; and that they were ungrateful, if not anti-republican, in not affording direct assistance to France, then earnestly contending, as it was pretended, for the liberty of the world.

Such surmises, respecting the views of General Washington, were enough to excite the prejudices and passions of the less informed against the federal administration, and to lead them to propose for rulers, men of different principles and views. In some states, the majority of the people wished for a change of Rulers. In Massachusetts, there were many of this class of politicians ; and Governor Adams was considered as entertaining the same sentiments and views with themselves. But whatever were his real opinions on the subject, he was too cautious to censure openly the measures and policy of the federal government. As to Washington, no doubt Mr. Adams had a high opinion of his patriotism ; though he might not consider him infallible as a politician. Mr. Adams, in fact, received the votes of many who had perfect confidence, both in the virtue and wisdom of the Chief Magistrate of the nation. The warmest political friends of Governor Adams, however, were those who disapproved of the conduct of the federal Rulers, particularly in relation to the French ; and he had himself, probably, a more favourable opinion of the good to result from the Revolution in France than many of those entertained, who were the de-

cided supporters of the pacific course of Washington, at this critical period.

But with all his democratic principles and professions, and no doubt he was sincere, Governor Adams was a firm friend of social order, of legitimate government, and of law. During the controversy with Great Britain, for several years before the war of the revolution began, he was always careful to refer to constitutional principles, in justification of the measures by the friends of liberty, among whom he was chief: and in the unhappy insurrection in the State, in 1786-7, he was one of the most efficient supporters of the government.

In his first speech to the Legislature, January 1794, after the death of Governor Hancock, Mr. Adams, referring to the origin and cause of the federal government, said, "it was judged that the great affairs of the United States, which till then were entire sovereignties, could not be well conducted under the direction of several distinct governments. They therefore, formed and adopted a federal constitution, by which certain powers of sovereignty are delegated to the persons chosen to administer the general government, to be exercised conformably to and within the restrictions of the constitution. And all powers, not vested in Congress, remain to the State individually. Great caution is necessary, lest any degree of infringement take place, either on the rights of the federal government, or on those of the several States." He also referred particularly, to the principles of civil and political liberty, which are recognized by the constitution of the State: "that all men are born free and equal, and have certain natural, essential and unalienable rights." And these, he said,

“he considered guaranteed by the author of nature, and acknowledged by divine revelation.” In his first address to the General Court, as Chief Magistrate of the Commonwealth, “he felt it his duty to give his views on the nature of civil government, and important to advert to the first principles of our social republican system, on the support and permanency of which he believed our freedom and happiness, as a people, depended.” Again in June following, when elected Governor, Mr. Adams spoke of “the natural liberty and equality of mankind,” and expressed his ardent wishes that they might be acknowledged and established in all the governments of Europe. He alluded, with evident approbation, to the political revolution going on in France; but still expressed great confidence in the wisdom and patriotism of General Washington, who was then President of the United States; and whose neutral policy, as it regarded France and Great Britain, was disapproved by some of Governor Adams’ warmest supporters. At a late period, Mr. Adams, like other intelligent republicans in the United States, condemned the excesses which took place in revolutionary France, and lost all confidence in the disinterestedness of the leaders of the successive factions, which long distracted that unhappy country.

In the speech of Governor Adams last mentioned, he spoke with emphasis on the importance of the education of youth, in conformity to the system adopted in former periods, by maintaining public grammar schools in all the towns of the Commonwealth. It had then become very common to establish academies in most counties; and it was apprehended, by some of the people, that the con-

sequence would be unfavourable to the support of the grammar schools. For the towns in the vicinity of an academy, availing of the advantage they afforded the few who desired a classical education, would become careless of keeping up their grammar schools ; and would employ persons to teach their children, who were not only destitute of a collegiate education, but entirely unfit to instruct them even in the English language. This evil was in fact the result in some places ; and the multiplication of academies, soon led to a great change in this respect. For the laws of the State were so altered, as to divide towns into several small districts, for schools ; and the persons employed to keep them were, frequently, quite incompetent to the important business they undertook.

By a clause in the constitution of the Commonwealth, which was adopted in 1780, that instrument was liable to a revision in 1795. In 1794 the question was submitted to the people, whether they were desirous of a convention, for the purpose of altering the constitution. But the majority expressed the opinion, that no alterations were necessary—a satisfactory proof, that the instrument was prepared with great wisdom, and was well adapted to promote the welfare and maintain the liberty of the people.

The amount assessed this year, for the public tax of the Commonwealth, was no greater than had been imposed for several preceding years ; and the Governor informed the General Court, that the finances of the State were in a prosperous condition. This was chiefly in consequence of the assumption of a great part of the debt of Massachusetts by the federal government.

The excesses and cruelties of the French, in 1793 and 1794, were so great, that many who had rejoiced when the revolution began, became alarmed and disgusted at their conduct; and the people of the United States were divided in their opinions, as to the real benefits which were to follow. The leaders in the revolution appeared to be destitute of moral principles, and even of the common feelings of humanity. The nation was in a state of perfect anarchy and misrule. The King had been executed, Lafayette proscribed, and all moderate men retired from the scene of confusion and blood.— Added to this, the conduct of the French agents in the United States was so irregular, that a great portion of the citizens joined in public expressions of disapprobation and censure, at their conduct.— Political Parties thus became more strongly marked, and more opposed in their sentiments, on the policy and measures of the general government.— At this period the British made depredations, on our commerce; and in other respects, discovered a disposition to embarrass the trade of the United States. Instead of an immediate resort to force, for justice, President Washington instituted a special embassy to the Court of London, for the purpose of negotiation. This prudent measure was represented as pusillanimous; particularly by those who were attached to France, and who still favoured the revolution in that country. When a Treaty was concluded, even before the articles were known, it was deprecated as a great political evil, as it was supposed it would serve to offend France, and make the intercourse with England more frequent and friendly. The feelings excited by the war of the revolution were not eradicated; and Great Britain

was considered, not entirely without reason, perhaps, as desirous of monopolizing all the advantages of commerce between the two countries.

The citizens of Boston, the capital of Massachusetts, were accustomed to take the lead in all important public concerns ; and generally, the feelings and opinions they expressed, were indicative of those entertained by the people throughout the State. In some instances, no doubt, there were exceptions to the truth of this remark. When it was known, that a treaty with the British government had been concluded, and was to be submitted by the President, to the Senate of the United States, for their consideration, but before the instrument was published and generally read, a certain class of politicians presumed to condemn it, and had the influence to excite strong prejudices against it, in the minds of many of the people.—The general features of the treaty were, indeed, known ; but much misrepresentation was made, as to its operations on the commerce of the United States ; and it was pretended, that the French nation would be so irritated by its adoption, as to make open war against America.

In this excited condition of the public feeling, a town meeting was holden in Boston, July, 1795, for the purpose of remonstrating against the treaty, and by a petition to the Senate, to prevent if possible, its ratification. It was proposed, by Charles Jarvis, to express their disapprobation of it, at once ; and to make known the opposition of the inhabitants of the town, immediately, to the President and Senate of the United States. One other person agreed to the course proposed by Mr. Jarvis,

and urged its adoption. One gentleman\* only was decided, in expressing an opinion of the impropriety and inexpediency of interfering with the subject, as the constitution had given the exclusive power to make treaties to the President and national Senate. Messrs. Dawes, Tudor and Eustis, who spoke on the occasion, were in favour of a postponement, or of a reference to a committee, to report at a future meeting, after a more perfect knowledge of the provisions of the treaty. Very few of the citizens had then even read it: But the popular prejudices were strong against it. At an adjourned meeting, a few days after, a report was made and resolutions were offered by the committee; which were accepted, with little opposition. The substance of the resolutions was, "that the treaty was injurious to our commercial interests, derogatory to the honour and independence of the United States, and might be dangerous to the peace of the country."

The members of the chamber of commerce in Boston convened, soon after, when the treaty had been more maturely considered, and gave an opinion in its favour, and expressed their full acquiescence in its adoption by the national administration.

In his reply to the citizens of Boston, President Washington said, "In every act of my administration, I have sought the happiness of my fellow citizens. My system for the attainment of this

\* *Joseph Hall, Esq.* an eminent attorney. On motion of B. Austin, a vote of thanks was passed by the meeting, to S. T. Mason, a Senator in Congress, from the State of Virginia, who had, contrary to the injunction of secrecy, while the treaty was pending before the Senate, caused a copy of that instrument to be published !

object has uniformly been to overlook all personal, local and partial considerations ; to contemplate the United States as one great whole ; to confide, that sudden impressions, when erroneous, would yield to candid reflection ; and to consult chiefly the substantial and permanent interests of our country. "Nor have I departed from this line of conduct on the occasion which has produced the resolutions contained in your letter.

"Without a predilection for my own judgment, I have weighed with attention every argument, which has been brought into view. But the constitution is the guide, which I can never abandon. It has assigned to the President the power of making treaties, with the advice and consent of the Senate. It was, doubtless, supposed two branches of government would combine, without passion, and with the best means of information, those facts and principles, on which the success of our foreign relations will always depend ; that they ought not to substitute, for their own convictions, the opinions of others ; or to seek truth through any channel but that of a temperate and well informed investigation."

In his answer to the Boston Chamber of Commerce, he observed—"while I regret the diversity of opinion which has been manifested on this occasion, it is a great satisfaction to learn, that the commercial part of my fellow-citizens, whose interests are thought to be most directly affected, so generally consider the treaty as calculated, on the whole, to procure important advantages to our country. This sentiment, I trust, will be extended, as the provisions of the treaty become well understood."

But the prejudices and excitement, occasioned by the ratification of the treaty with Great Britain, were such as to produce riots among the lower classes in Boston. It was supposed, however, that they were persuaded to these excesses by some who did not personally take a part in them, and who had been among the most clamourous in condemning the treaty. These riots were continued for several successive nights. Some houses were attacked. The Attorney General of the State and the Sheriff of Suffolk, who attempted to suppress the mob, were grossly insulted, and in one instance personally assaulted.\* The Governor declined to interpose his authority, when requested; believing, as he said, that it was the harmless amusement of young persons; which, if not altogether justifiable, did not require the arm of civil power to suppress it. A number of citizens formed a voluntary association, to prevent the continuance of such excesses; and their efforts were successful.

When the passions and prejudices of men are once warmly enlisted in a cause, whether political or religious, they are liable to go to extremes, which, under the guidance of sober reason, they would carefully avoid. They are prone to misrepresent the views and designs of those, from whom they differ, and to submit to the influence of the more zealous and active, without due consideration. The two political parties in the United States, which sprung up in 1789, in consequence of different views entertained of the tendency of

\* One act of the mob was the burning an Effigy of Mr. Jay, who negotiated the treaty with England, which was so unpopular at the time, but which was afterwards, generally approved.

the federal or national government, continued for several years, when the policy and conduct of President Washington, towards the two great belligerent nations of Europe, served to strengthen the decision, and to embitter the feelings of opposing partisans. The political separation of the citizens was confirmed, by the acceptance of the treaty made with Great Britain in 1795. There was, no doubt, an honest and sincere difference of opinion, as to the propriety and wisdom of these measures, and this course of policy. But there was, much of misrepresentation of motives and unjust crimination of each other. When it was pretended, that Washington and the members of his Cabinet were inimical to France, because it had changed from a monarchical to a republican form of government (as was alleged,) and that they were willing to accept a treaty with England, on terms injurious or dishonorable to the United States, very few, probably, believed the charge well founded. And when those who disapproved of the neutral policy of the federal administration, because they believed America was bound in gratitude to favour the French nation ; and expressed their dissatisfaction with the British treaty of 1795, as they considered it less beneficial in its provisions to the United States than to England ; were accused of a disposition to paralyze the government of their country and to sacrifice the peace of the nation to please the rulers of France ; the charge was made in the heat of party disputes, and under the influence rather of political prejudices and feelings than of sober and rational conviction. That one party would have preferred peace with England and war with France, if such were the unavoidable alterna-

tive, there is perhaps, no just cause to doubt.—Nor is there less reason to believe, that the other party, if war was inevitable as to one of the belligerents in Europe, would have chosen Great Britain for an enemy, and France for an ally. Which could have been the most just or politic course, it must be difficult at a subsequent period to decide. If all the circumstances of the times, and the peculiar condition of the United States were duly considered, however, it probably would appear, that the pacific and neutral policy of the national rulers in 1792, 93 and 94, was the most wise; and was, therefore, deserving the confidence and support of the people. The opposition to the measures of the federal government, at that time, discovered too much of a spirit of party, and no doubt induced the Rulers of France to treat the American government with disrespect and insolence. They supposed the majority of the people in the United States differed in opinion, from the Administration, and would be easily persuaded to withdraw their support from it. But in this, they were greatly mistaken. For with all their ardent wishes, for the prosperity of the French republic, the people were truly patriotic, and cherished the utmost loyalty of feeling towards their own government. The rulers of the nation, notwithstanding the many censures cast upon them, continued to receive the confidence and support of the citizens, generally, for several years after.

The Historical Society of Massachusetts was incorporated in 1794. Hon. James Sullivan was the first president; and the original promoters of it, were Rev. Dr. Belknap, Hon. James Winthrop, Rev. Dr. Eliot, Rev. Dr. Freeman, Hon.

John Davis, William Tudor, George R. Minot, and Mr. Pemberton. Bowdoin College, at Brunswick, in Maine, was also incorporated in the year 1794; and the Rev. Joseph McKean was elected the first President. Besides the grant of a large tract of land, by the Legislature, some valuable donations were made to the Institution by individuals. Hon. James Bowdoin, son of Governor Bowdoin, was a liberal patron of the College.

On the 4th of July 1795, the corner stone of the new State House was laid by Governor Adams.—The lot was purchased by the town of Boston, of the heirs of Governor Hancock, for \$4000. The town made sale of several public lots, to pay for the lot purchased, as a site for the Capitol. A large procession was formed of the citizens, and the Grand Lodge of Free Masons also attended, on the occasion. The Governor made a short but pertinent address; in which he said, “he trusted, that within its walls, liberty and the rights of man would be eternally supported.”

Claiming Governor Adams, as one with them in sentiment and feeling, the opposers of Washington’s administration, in Massachusetts, in 1795 and 1796, became more clamorous and more intemperate in their censures. But some of them were inclined to throw the blame of the measures they condemned, rather on other members of the cabinet, than on the President himself. In some of his public speeches, Governor Adams gave too much occasion to this class of citizens, perhaps, to rank him in the opposition to the measures of the National Government. On one occasion he spoke of the federal government, as a “*foreign* government,” which was considered by many as an im-

proper epithet ; as it was instituted by the people, as much as the State governments were ; and it furnished argument, for the discontented to complain and to oppose. Governor Adams always estimated State Rights very highly ; and was desirous of keeping the federal government from all interference with them. In the expression of this jealousy, he might have been in error ; but he was undoubtedly sincere and honest in his political sentiments.—For many years, from this period, the Commonwealth continued to be divided by two great political parties, called federal and anti-federal, or democratic. The former were accused of being aristocratic in their sentiments and views ; the latter, as being promoters of disorder and misrule ; or as contending for principles, which were incompatible with the just support of law and order. Each was unjustly accused, no doubt, by the other ; or their respective opinions greatly exaggerated. There is every reason to believe, that the federalists generally, if not universally, were in favour of a republican or elective government ; and were never disposed to abridge the power and rights of the people. So, on the other hand, the majority of the democratic party were friends to constitutional restraints and to good government ; but generally, had higher notions of the power, or rather of the wisdom of the great mass of the people. These assumed the name of republican, and for a long time were known by it, equally as by that of democratic ; while the other party, from being the greatest advocates for the federal government, were long known by the appellation of federalists ; but most of them, no doubt, were as sincerely attached to republican principles as the other. The democrat-

ic party was also frequently denominated anti-federal, because many of them disapproved of the federal constitution, and, as a party, were opposed to the leading measures of the federal government, of that period.

Governor Adams was particularly opposed to the British treaty, and spoke of it in his public address to the Legislature of the State, as being in his opinion, "pregnant with great national evils." He also at this time suggested the propriety of having the federal constitution so altered, as that no treaty should be valid and perfect, unless the voice of the House of Representatives in Congress were in its favour. The Constitution gave the power of making treaties with foreign nations, to the President and Senate: but Governor Adams believed, that the popular branch of the national Legislature, should be consulted in their ratification. Many other eminent republicans were of the same opinion. But the Constitution was not modified so as to give such power to the House of Representatives. It was generally considered proper, that the President and Senate should have exclusive power on this subject. The Governor was content, in giving his opinion on this point; which was, no doubt, sincerely entertained, and the suggestion of ardent patriotism. He was too wise and too patriotic to urge an alteration in the federal Constitution, if not approved by the majority of the people.

## CHAPTER III.

Judge Sumner chosen Governor for 1797....He approves the policy of the federal government....Re-elected for 1798 and 1799....His death....Embassy to France in 1797....Not accredited....Two of them return....Mr. Gerry remains....Public religious worship and Ministers of the gospel.

Notwithstanding the depredations on the commerce of the country by the British, in 1793 and 1794, it was extended during these and the following years; and generally yielded great profits to those concerned in it. By preserving a neutral character, while France and England were engaged in war, the United States enjoyed the benefits of navigation, to a degree, which would not have been experienced had there been peace between those nations. The lumber trade from Maine, and the fisheries, added much to the wealth of the State, at this period.

By the treaty with Great Britain that government agreed to indemnify the Merchants of the United States, for the property which had been taken from them; and most of the American claims were soon after allowed and satisfied, under the direction of commissioners appointed by the two governments.\*

At the session of the General Court, in June

\* Christopher Gore of Massachusetts was one of the Commissioners.

1796, a resolve was passed, dividing the Commonwealth into Districts, for the choice of Electors of President and Vice President of the United States, as had been done on former similar occasions. They were to be chosen by the people, but the districting was different from that of 1792. At that time the State was divided into four districts, now there were fourteen, and each district was to choose one Elector. Two others were chosen by the Legislature. In the month of November, of this year, there was a Session of the Legislature, when a resolution was adopted, giving power to the Electors, who should be chosen by the people, to fill up any vacancies in the Board. When the resolve was presented to Governor Adams for his approbation and signature, he put his name to it, without much delay. But immediately after, he doubted the propriety of the measure; and the day following sent a message to the General Court expressing his doubts on the subject, and requesting liberty to erase his name and annul his former approval.

The reason given by the Governor was, that he was strongly inclined to the opinion, the resolve was contrary to the spirit and intent of the constitution; and that it would be improper to give a small number of men the power to appoint Electors or an Elector of President and Vice President of the United States, which belonged to the whole body of the people themselves. If not by the people, in their primary assemblies, he was of opinion, the choice should be made by the Legislative Body. But the General Court did not consent to the proposition of the Governor to withdraw his signature, or to annul the resolve.

In his public address to the Legislature, January 1797, Governor Adams, spoke of the importance of providing by law for the purity of elections; and also gave notice, that he should decline the suffrages of his fellow citizens for the office of Chief Magistrate, at the approaching election. He was now about the age of seventy seven years; and he found the cares and duties of public life too laborious for his constitutional infirmities. In his retirement to private life, he carried with him the good wishes and respect of the people, who always retained a grateful sense of his firmness and zeal in the cause of civil liberty.

Increase Sumner succeeded Mr. Adams, in May 1797, as Chief Magistrate of the Commonwealth. He came into office by the support and votes of that class of citizens denominated *federalists*. The other candidates for the office of Chief Magistrate, at that time, were Moses Gill, who had been Lieutenant Governor for several years, and James Sullivan, Attorney General of the State. Neither of these Gentlemen was considered decidedly opposed to the policy and measures of the federal government; but Mr. Sumner was believed to be more firmly and fully disposed to give his support to the national administration. He had been a Judge of the Supreme Judicial Court of the Commonwealth, for several years: and was highly esteemed as well for his mild and urbane deportment, as for his talents and integrity. He had always openly approved the political conduct of President Washington and his cabinet, while, by a portion of the people in Massachusetts, as well as in other States in the Union, it was condemned as unwise or anti-republican. Party views had not

yet indeed, rendered the citizens altogether so bitter and hostile in their feelings towards one another as they were at a later period ; but then even, the political division was such that each had its favourite candidate for offices ; and the opposing one was represented either as so aristocratic or so democratic, as to be an improper character to be placed at the head of the Commonwealth. But the three eminent patriots, then candidates for the Chief Magistracy, were all, no doubt, sincerely attached to republican freedom, and would have administered the government in the true spirit of the Constitution.

In his first public address to the General Court, June 1797, Governor Sumner spoke of the policy and measures of the federal government with entire approbation. He declared his belief in the wisdom of the pacific and neutral course which had been pursued by Washington, with regard to France and England, and his confidence in the talents and patriotism of President Adams, who had then been recently elected Chief Magistrate of the United States. In this declaration, the Governor expressed the sentiments of a large majority of the citizens of Massachusetts. The happy effects of the pacific policy, adopted by the national rulers, were now every where felt and generally acknowledged. The commerce of the country was extensive and prosperous ; and its increase was attended by corresponding benefits to the mechanic and the farmer. A few only, at that period, openly manifested dissatisfaction with the measures of the general government. Mr. Adams, the new President, was known to be very friendly to commerce ; and it was believed, that he would pursue the wise

and prudent policy of his illustrious predecessor. But he had not been long in the chair, before his measures were bitterly opposed, in some sections of the nation, with the pretence, that he was departing from the pacific course of Washington, and was too much attached, for a Chief Magistrate of the American republic, to the government and nation of Great Britain. He was charged with expressing, in his defence of the constitutions of the several American States, too high an opinion of the wisdom and excellence of the British government ; and it was pretended he was in favour of the hereditary principle recognized in all monarchies. Of this, there was, indeed, no sufficient evidence ; and his friends appealed both to his writings and his conduct to discredit the suspicion.

But, unhappily, the opinion, prevailed in various states of the Union ; and the suspicion induced many of the citizens to misconstrue and misrepresent his public conduct. Some, in Massachusetts indulged in this uncandid, jealous spirit, and united with others in different States in censuring his administration. Generally, however, those who approved of the political course of Washington, gave their ready support to President Adams.—But party spirit was not extinguished nor checked. If it was less virulent for a short period, after Mr. Adams succeeded to the Chief Magistracy of the nation, it was soon again to be manifested with new warmth and activity.

The Rulers of France had not ceased to complain of the government of the United States ; and seemed still (in 1797) desirous of forcing America into a war with England ; or of preventing all commercial connexion between the two countries ; with

a view chiefly, no doubt, to injure the prosperity and strength of her rival. The conduct of the French government, which was then in the hands of a mere faction, was so unjust and so insolent towards the United States, that it became necessary, in the opinion of President Adams and his cabinet, to remonstrate with decision and feeling, and to prepare for the support of the nation's rights. This opinion and decision led to the adoption of measures expensive to the country, in building ships of war for the protection of commerce, in fortifying the sea-coasts, and in augmenting the number of national troops. The political enemies of Mr. Adams and of the federal party, took advantage of these expensive measures, to represent the administration and the majority of Congress as extravagant in their expenditures, and as disposed to a war with France, rather than with Great Britain; with one of which, it was supposed to be almost inevitable. It was said, that the French government demanded no more indulgencies or privileges than ought to be awarded from one republic to another: and that gratitude imposed an additional obligation upon the United States to favour, if not openly and directly to assist the people of France, struggling for the liberty, which was enjoyed by the citizens of America.

Mr. Sumner was again chosen Governor of Massachusetts in 1798; and in the usual public speech to the Legislature and Representatives of the people, he renewedly expressed his confidence in the wise policy and patriotic views of the national rulers; and recommended an acquiescence in, and support of their measures. Whatever regarded the welfare and prosperity of the whole United States,

and all affairs with foreign nations, the Governor considered as properly and exclusively belonging to the federal government; and was very desirous of impressing the people of the State with a belief of the propriety and importance of the measures, adopted by Congress, and by the National Executive.

He however, recommended to the Legislature to adopt measures of defence for the sea-coasts of the State, which are very extensive. And in 1797, during his administration, Castle-Island, in the harbour of Boston, on which a fort had been maintained from the first settlement of the country, was ceded to the United States. The fortifications were repaired and extended, with a view to prevent the entrance of any foreign vessels, which might invade the town. But a large portion of the people in the State, though the minority, did not see, or would not acknowledge the necessity for such expensive measures,; and therefore continued to complain of the federal rulers. They contended, that a proper resentment of British aggressions, and a sincere desire to be on friendly terms with France, would place the nation in an eligible condition; that war would be prevented, and commerce free from interruption. By this party, some of whom were eminent statesmen, and most probably, honest in their censures of the national rulers, Governor Sumner was warmly opposed. But he was re-elected in 1799, by a very large majority of votes—Out of the 33,000, the whole number given that year, he received 25,000. To the great grief of his particular friends, and of many who had not the privilege of his personal acquaintance, he died the seventh of June, before he had taken the usual

oaths of office, to qualify him to discharge the duties of Chief Magistrate of the Commonwealth, for another year. Moses Gill, who was chosen Lieutenant Governor, occupied the chair of Chief Magistrate of the State, for the residue of the political year. He had been elected to the second office in the State, for several years; and was esteemed as an ardent patriot and a sincere friend to the liberties of the people.

The character of the political parties in the State remain unchanged. It was similar in other parts of the nation. The charge of British influence, or of an undue attachment to the English Nation, which was brought forward in 1795, when a treaty was made with that Government by General Washington, was reiterated; and some of the people were led to believe that the federal rulers were secretly desirous of an alliance with Great Britain, which would result in a general imitation of her political principles and form of government. The greater part of intelligent citizens, however, were superior to such a groundless suspicion. They wished indeed, to avoid a war with England; for her naval force was such as would destroy the commerce of the United States, the means of profit and wealth to a large portion of the people, and the principal source of revenue to the nation. But it was not believed, that the honour, any more than the interest of the nation, required hostility against Great Britain. Negotiation had formerly settled the disputes between the Government of that country and the United States, and obtained indemnification for injuries, without the relinquishment of any rights, as an independent nation.—The British Government, perhaps, had just cause

of complaint, in some instances, of a predilection, in the people of the United States, for the French Republic.

Under the authority given by Congress in 1797, to the Supreme Executive of the Nation, President Adams ordered the building of several large frigates,\* and the increase of the national troops, which were denominated a provisional army. General Washington, who had retired from public life, and who was then of the age of sixty-eight, was induced from motives of patriotism, to accept the command of it; but on condition, that he was not to take the field in person, unless there was imminent danger of an invasion of the country by the French, who had threatened to make war upon the United States. The general officers designated for command in the provisional army, from Massachusetts, were Henry Knox, as a Major General, and John Brooks, as a Brigadier General. They had both been distinguished officers in the war of the revolution; and President Adams entertained a high opinion of their intelligence, bravery and patriotism. A part of the army, raised at this period, was stationed at Oxford, in the County of Worcester in Massachusetts, and remained about a year, when the troops were disbanded.

In the Summer of 1797, the President of the United States, (Mr. Adams) appointed three Envoys, to France, to endeavour to conciliate the Rulers of that Nation, and to adjust the difficulties which had, for several years, existed between

\* One was built in Boston, and called the *Constitution*. She was considered one of the best and finest ships belonging to the United States; and is now as strong as those more recently built. She carries 44 Guns.

the two Governments; and in which both the honour and the interest of America were believed to be deeply involved. Elbridge Gerry, one of the Envoys, was a citizen of Massachusetts, who had been much in political life, and was esteemed as a man of talents and patriotism. The reception of the American Ministers was such, as to induce two of them, Messrs. Pinckney and Marshall, to break off from all negotiations at an early period, and to leave the Court of France. For they were not publicly and officially accredited; and persons were sent, in an informal and private manner, to ascertain their views, and to learn on what terms the United States was ready and willing to *purchase* the friendship of France. A loan to a large amount, and a *douceur* to the Ministers, was stated as necessary, even before entering on negotiation. Their instructions gave them no power to agree to such terms.—The intimation was also so revolting to the majority of the Envoys, at least, that they rejected them with indignation. It was on this occasion, that General Pinckney made the following patriotic declaration—“ Millions for defence; not a cent for tribute.”

They were satisfied of a disposition, in the French Rulers, to delay and to evade the real merits of the dispute between the two nations; and they had reason also to suspect a design to bribe or to intimidate the Envoys. Of this, at least, they were fully convinced, that no treaty could be made, consistently with the instructions, which they had received, or with the rights and honour of an independent nation.

In a message to Congress, January 1797, President Adams declared, “ that he had no reason

to hope (from the letters of the Envoys) that the objects of the mission would be effected, on terms, consistent with the honour, interests or safety of the nation.” This opinion of the President was founded on letters written by the Envoys, three months after their arrival in France. In one dated in Dec. 1797, they observe, “we are *all* of opinion, that if we remain here six months, unless we stipulate to pay the sum proposed, we shall not be able to effect the object of our mission.” They say further, in a letter of January 1798, “that there was no hope of their being officially received by the French government; or that the objects of their mission would be, in any way, accomplished.” The President said also, in the message before quoted, “that he had done all in his power to conciliate France; and had given to the Envoys powers commensurate to the most liberal and pacific policy.”\* General Pinckney and Mr. Marshall quitted France in April 1798. But before this was known in the United States, the President had instructed the Envoys to return, unless the demand both of the douceur and loan was withdrawn, and they had been duly received, with a hope of forming a treaty on just and equitable principles. Mr. Gerry however remained; in the hope, no doubt, of effecting a treaty. But in this he was disappointed. And many of the citizens of the United States, and a large majority in Massachusetts censured him for thinking he could negotiate favourably for the

\* The conduct of the French Government towards the United States, in 1797 and 98, was such as to justify the remark of an eminent patriot, “that resistance, or unconditional submission, was the only alternative left to a nation, within reach of its arms.”

country, alone, when his colleagues were convinced that no just or reasonable conditions would be admitted. It was said, he ought to have shown the same decision and firmness, as his colleagues did ; and that it would have reflected greater honour upon the American government. With many indeed, Mr. Gerry was believed to have been patriotic and upright in his views ; but that he erred, in supposing he could accomplish, by his individual efforts and influence, what the whole embassy could not effect. The object of the French government, undoubtedly, was to detach Mr. Gerry from his colleagues ; and through him, to make some improper offers, which, if not accepted by the President and Congress, might serve to decieve the world, and to keep up a party in the United States, of which to avail itself at a future time. The character of Mr. Gerry was that of being tenacious of his own peculiar projects and opinions ; and of estimating, with great self-complacency, the plans which originated with himself. To have concluded a treaty with France, which would be approved by the people, after his two colleagues had left the country in disquiet or in despair, would have been a subject of triumph and self-gratification.

Mr. Gerry returned to America in October 1798 ; having remained near the French Government about six months after his colleagues had retired, and some time after he received instructions to return. The President of the United States was not pleased with his remaining, after inadmissible and insulting terms had been proposed, as the commencement of negotiation ; and his colleagues had concluded there was no hope of a treaty, consistent with the honour or interests of

the nation. In the hope of detaching Mr. Gerry from the other Envoys, he had more attention paid to him; and even proposals, for an adjustment of the dispute between the two nations, were made to him, which *he declined to make known to his colleagues*. After their departure, he was deluded by specious promises of negotiation; and, at the same time, was the subject of insulting mockery, which must have excited his deep indignation, though he did not think it prudent to manifest it. The French Minister had early informed the Envoys, that the persons sent, informally, to converse with them were authorised by the Government, and might be believed in all they said or proposed. When it was known in the United States and in other places, that this intrigue had been adopted by Tallyrand, it was condemned, as highly improper in the French Minister and Government. The Minister of France had the effrontery to catechise Mr. Gerry on the subject, (Pinckney and Marshall had then returned.) He denied having any agency in employing Messrs. X. Y. and Z. and said the American Envoys had been imposed upon by persons unknown to the French Government. Most men would have manifested more sensibility at such treatment, than it appears the American Envoy did.

Soon after the return of Mr. Gerry, though he seems to have been convinced, while in France, both, when the other Envoys were there and after they left it, that no just and reasonable terms could be obtained, he wrote to President Adams (early in 1799) that the French rulers were desirous to treat with the United States. Referring to this letter of Mr. Gerry, Mr. Marshall says, "I am

grieved, rather than *surprised* at Mr. Gerry's letter. It is strange he should say, the negotiation was in a fair train. And I know not from what facts he infers the pacific temper of the French government. The evidence on which his judgment is formed *contradicts* the opinion he gave us.”\*

The great excitement produced by the treatment of the American Envoys, particularly in Massachusetts, and the peculiar course taken by Mr. Gerry, one of the Envoys, who was an eminent citizen of the State, will justify this full statement of a transaction, which is more immediately of a national character.

In March 1800, a law was passed, providing for the public Worship of God, and for the maintenance of teachers of piety, religion and morality. By this statute, it was enacted, “that the churches, connected and associated in public worship with towns, parishes, precincts, districts and other bodies politic or religious societies, should enjoy all their accustomed liberties and privileges, church order and discipline, not repugnant to the constitution of the commonwealth;” and every town, district, precinct, parish or other body politic or religious society was “required to be provided

\* The agent of the French government used this insolent language to the American Envoys, in Nov. 1797,—“ You ought to know that the *diplomatic skill* of France and the means she possesses in *your country* are sufficient to enable her, with the *French party* in America, to throw the blame of the rupture on the Federalists, as you call yourselves; but on the *British party*, as we call you: And you may be assured this will be done.” How could patriotic and honourable men remain after this, and subject themselves to hear further insults offered to the government of their country? Soon after, Pinckney and Marshall resolved to leave France.

with a protestant teacher of piety, religion and morality.' And the contract for the christian minister or teacher was to be made by the town or parish, (and not by the church separately) and was to be legally binding on the parish or town, in its corporate capacity.

It was provided, however, in this statute, that any person, taxed for the support of the Minister of the town or parish, within the limits of which he lived, being of a different sect or denomination might have his tax paid over to the public teacher, on whose instructions he usually attended, first obtaining a certificate, that he belonged to such other religious society.

This law was not passed without much consideration. Former laws on the subject were repealed; particularly all those made, previously to the adoption of the Constitution of the State in 1780. There were two important questions agitated at this time; one of which grew out the different constructions given to the third article in the Bill of Rights, as to the exemption of persons of a denomination other than that of the inhabitants generally, of the town or parish in which they lived, from paying taxes to the support of the settled minister of the place; and the other was moved by those who contended, that the *church* in any town, as distinct from the whole body of citizens, ought as in the first settlement of the country, to have the sole and exclusive power to elect the pastor or minister.

The clause of the constitution, contained in the proviso to the third article in the Bill of Rights, was so construed as to give dissatisfaction to those who belonged to minor sects or denominations; for it was contended, that, unless the person con-

stantly attended another place of worship, he must pay to the support of the minister of the town in which he lived, who was settled by the majority. The law of 1800 was considered more consistent with religious liberty, than some had been willing to allow, as it provided that one who belonged to a different sect or denomination might pay towards the support of the minister on whose instructions he *usually* attended, instead of assisting to maintain the teacher approved by the majority of the town. It was not till a much later period, (1811) that persons, who were not of a different denomination from the majority of a town or parish, were by law, excused from paying towards the settled Minister, and forming another Society, called indeed religious, but in which there was no regular teacher of piety, religion and morality.

By this statute, of 1800, the right of the citizens of any town or parish to have a voice in electing their Pastor or Teacher, as well as in fixing the amount of his salary, was also recognized. The laws of 1692, 1693 and 1695, relating to the power or privileges of *churches*, were repealed. In a very few cases, indeed, did churches contend for the right to choose a teacher for the town, without the consent and concurrence of the members of the congregation or society. The statute of 1693 required the inhabitants of each *town* to provide a learned and able Minister, and of good conversation; thus clearly implying that all the members of the society were to have a voice in his election. In 1695, “because in some towns there were more churches than one,” it was enacted, “that the church should have power, (according to the word of God) to choose their own Minister;” and

that, on the majority of the inhabitants who usually attended the public worship of God, and who were qualified by law to vote in town affairs, concurring with the church in the choice, the person so elected, shall be the Minister," &c.

By this act, also, the inhabitants of a town, in which there was no church gathered or formed, were authorized to choose and call a Minister, for the settlement and maintenance of whom all the inhabitants were to be assessed. The law of 1695 provided, that, on the election of a Pastor or Teacher by the church, if the members of the Society or Congregation refused their assent, it might be proper for the church to have such person ordained accordingly, the neighbouring clergymen advising to the measure. But no instances are known for many years, in which the members of a church proceeded to settle a Minister, contrary to the wishes and will of the majority of the Congregation.

## CHAPTER IV.

Caleb Strong chosen Governor in 1800.....His character.....Political parties continue.....Governor Strong approves of the policy of the federal government.....Addresses of the people, to the President of the United States.....Mr. Jefferson elected President of the United States.....Governor Strong re-elected in Massachusetts.....His conciliatory sentiments and advice.....Part of the State debt paid.....State Penitentiary.....Electors of President and Vice President of the United States.....State laws.

Caleb Strong was chosen Governor of Massachusetts, in April 1800. The other prominent candidate was Elbridge Gerry. The former was supported by the friends of the national administration; and was elected only by a small majority of votes. For many of the people were inclined to the belief, or the apprehension, that the federal rulers were plunging the nation into an unnecessary war; and that they were departing, in their political conduct, from the true principles of republicanism, or democracy. At this time, the citizens were nearly equally divided, into two political parties; the one was friendly to the existing administration of the general government; the other was warmly opposed to it. The latter proposed Mr. Jefferson for President of the United States, and the former gave its support to Mr. Adams. It was believed that Mr. Jefferson would be more desirous of preserving peace with France; and that he was more firmly established in true republican principles. The fed-

eral party was opposed to Mr. Jefferson's election, in the belief that he had been unfriendly to the policy of Washington in 1793-95; and also early objected to the federal Constitution, as too great an imitation of the British. The democratic party warmly opposed the re-election of Mr. Adams.

Mr. Strong was a man of uncommon talents, of great political knowledge and experience, and of unblemished morals. He entered early into public life, having been chosen a member of the Legislature, in the critical period of 1776. He was remarkable for self-command and good judgment; and his patriotism was pure and elevated. He was one of the five delegates from Massachusetts\* to the general Convention at Philadelphia in 1787, by which the federal Constitution of the United States was framed. He was also a member of the State Convention of Massachusetts for adopting that Constitution; and no one was more active, or had a greater influence in procuring its acceptance.— When the federal government was established, in 1789, Mr. Strong was a Senator from Massachusetts, and contributed his full share of the talents, judgment and industry engaged in its organization. The judicial system of the United States, so highly and justly approved, was chiefly the work of his profound, comprehensive mind. Mr. Strong was eminent, also as a counsellor of law. He was early appointed a justice of the Supreme Judicial Court

\* The others were Francis Dana, Elbridge Gerry, Nathaniel Gorham and Rufus King. Strong and Dana, though very much in favour of the Constitution, were necessarily absent from Philadelphia, when it was signed and sent out to the people; and therefore, their signatures do not appear to the instrument.

of Massachusetts, but could not be induced to accept the appointment.

The friends of the national government rejoiced at his elevation to the chair of Chief Magistrate of the large and respectable State of Massachusetts. And many of his political opponents had great confidence in his integrity and patriotism. His moderation and discretion were guarantees for the general propriety of his conduct ; and no one feared that he would adopt any measures from merely party excitement. But at the close of the first year of his gubernatorial service, he was opposed with as much warmth and zeal, as if he had compromised the peace and honour of the State, or shown himself indifferent to the rights and liberties of the people. Mr. Gerry was again supported for the office of Governor, by the anti-federalist party as they were commonly called, or the party opposed to the federal administration. But Governor Strong was re-elected ; having received 25,000 votes out of 40,000.

As had been anticipated, Governor Strong, soon after his election, expressed his approbation of the measures of the general government, in his characteristic tone of firmness and moderation. It was his manner to justify his own course, and to give the reasons for the policy he approved, without harsh and severe denunciations against those who differed from him on political subjects.

The internal police of the Commonwealth, at this period, required little correction. The growth and prosperity of the State were every where visible ; particularly, on public roads, great improvements were made, to the advantage and convenience of the citizens. Notwithstanding some inter-

ruptions to our extended foreign trade, in consequence of the war in Europe, and the repeated depredations on the navigation of the United States by the French, commerce was in a flourishing condition ; and the labours of the farmers and mechanics were favourably affected, by the prosperity of the merchants. The domestic dwellings of individuals, both in the country and sea-ports, were indications of this state of general improvement.

So long as there was any apprehension of a war with France, an ardent spirit of patriotism and independence animated the citizens of Massachusetts. Their voice was generally heard in approbation of the conduct of the federal administration ; and they were well prepared to support the just authority of the government. Citizens of all classes were engaged in addressing the Chief Magistrate of the Union, and promising their assistance for the defence and honour of the nation. A portion of the people, however, declared their dissent from the policy of the general government, and believed that further attempts at negotiation would be attended with success. Defensive measures were still pursued, at the same time that another embassy was instituted, for the purpose of restoring, if possible, a good understanding between France and America, without a resort to arms.\*

The administration of President Adams, and the

\* In October 1800, a naval combat took place between the United States Frigate Boston, of 32 guns, commanded by George Little of Massachusetts, and a French Frigate of a larger size ; in which the former was victorious. This was considered a brave and gallant exploit, on the part of Captain Little. The event was noticed with exultation by the people of the State and nation ; for there had not then, recently, been any similar victories to record or celebrate.

conduct of the federal party, then the majority in Congress, were particularly obnoxious to a great portion of the people, on account of the alien and sedition laws ; by which, the Executive was authorised to order foreigners to leave the United States, merely on suspicion of being opposed to the policy of the government ; and prosecutions were to be sustained in the Judicial Courts for pretended libellous publications on the rulers of the nation ; by which, it was supposed the freedom of the press would be restrained. These were very unpopular measures. It was considered arbitrary, as well as unwise to force men from the country, merely for disapproving or censuring the policy of the government ; and any approaches towards restraining the full liberty of the press were viewed with alarm and abhorrence.

The people of the United States were in this state of excitement and alarm, when the period arrived for designating some one to fill the office of President, for whom votes were to be given before the close of the year, (1800.) Those who approved generally, of the policy and measures of the existing administration were in favour of Mr. Adams, for four years longer. But those who considered the public conduct of Mr. Adams and his political friends improper and arbitrary, declared a preference for Mr. Jefferson of Virginia, who was then Vice President. The majority in Massachusetts was in favour of Mr. Adams ; and all the votes, given by the Electors for the State, were for him. These Electors of President and Vice President of the United State, were, at this time, chosen by the Legislature, at a special session in November. Four years before, all the citizens

voted for the Electors, in their respective districts. To secure the undivided vote of the State for Mr. Adams, this plan was adopted of electing by the Legislature, the majority of the members being known to be in his favour. If the former mode, of voting in districts by the citizens, had been adopted, several votes in the State would probably have been given for Mr. Jefferson.

It was reasonable and proper, perhaps to have the will of the majority in a State take effect, in such cases ; as otherwise, the voice and influence of the State would be divided, and of no avail, in the decision or choice to be made. But the same objection will lie against the mode of choosing members of Congress, in any State, by districts. For the opinions and votes of the members so chosen, may conflict with one another. Besides, whatever mode of choosing Electors is observed, should be adopted with great deliberation, and without the influence of party feelings. It should be uniform and permanent : and not changed according to the wishes of the existing majority.

Mr. Jefferson received more votes through all the States than Mr. Adams ; but was not chosen President by the Electors. The choice thus devolved on the House of Representatives of the nation ; and Mr. Jefferson was eventually elected President of the Union. At the session of the General Court of Massachusetts, next following the election of Mr. Jefferson, which was in June 1801, Governor Strong expressed himself in his Speech to the Legislature, in a very conciliating and candid manner. “ Although,” said he, “ in the choice of a President of the United States, the result has not corresponded with the wishes of ma-

ny citizens of this Commonwealth, yet they will reflect, that, in republics, the opinion of the majority must prevail, and that obedience to the laws, and respect for the constitutional authority, are essential to the character of good citizens. We are encouraged to expect, that the Chief Magistrate of the nation will not depart from the essential principles of the government ; and so long as his administration shall be guided by those principles, he will be entitled to the confidence of the people ; and their interests require that he should possess it. But, if it shall, appear hereafter, that their anticipations are not realized, still a sense of decorum, and regard to justice and the public welfare should exclude asperity and false colouring from all discussion of public measures : For the morals and liberties of the people will be in danger, if the presses in our country are prostituted to faction and falsehood." This is the language of a true patriot and of an enlightened statesman. It would be happy for the country, if such advice were generally followed, and such conciliating conduct imitated by distinguished politicians through the union.

In his official communications to the Legislature at this period, Governor Strong directed their attention to the means of the education of youth, as indispensable in a republican government, and as necessary to the welfare and happiness of society. The children of all classes of people, he insisted ought to be provided with instruction at the public expense. This indeed was in conformity to former usage in the State. But the most common duties, if essential to the improvement and intelligence of the community, should be frequently stat-

ed and recommended. He also urged upon the representatives of the people, the importance “of industry and frugality, of purity and simplicity of manners, to the preservation and enjoyment of republican freedom.”

At this time, the laws relating to schools and the public worship of God were examined by the Legislature, with peculiar attention. The inhabitants of the country, from its first settlement had been in favour of public schools, in which the children of the poorest classes might receive the rudiments of useful knowledge; and they believed it important, also, to provide, by law, for the support of teachers of piety, religion and morality; as some might otherwise be negligent of maintaining such institutions: at the same time, it was desired, that the people might be secured in the exercise of perfect liberty of conscience. The effect of the revolutionary war had been rather unfavourable to the cause of religion and good morals. But the people soon became more religious; and appeared to be duly sensible of the benefits of public worship, both in a spiritual and social view.

Public schools, supported by a common tax on all classes of the people, had been also required by law, from a very early period of the country. In the colony of Plymouth, while it was separate from Massachusetts, the general assembly provided for the support of public schools, where the children of all, without distinction were instructed. Massachusetts made a similar provision, at an early day; and has never ceased to require the maintenance of such institutions. These are the foundations and pillars of our republican government. The children of all, of the rich and the poor, of the

public officer and common citizen, meet together on a perfect level, with equal privileges and rights. They become attached to one another ; and they acquire ideas of equality, which are important, and which remain with them through life.

According to a statement of the Governor, made in the course of this year (1801) a part of the debt of the State, incurred during the war of the revolution, and which had been allowed by Congress, as a balance due the Commonwealth, had been paid ; in consequence of which the direct taxes would not be very great. At this time, the State tax was one hundred and thirty three thousand dollars. The pay of the Representatives amounted to \$20,000. In 1811, it was \$35,000.

During this political year, a law was passed, for paying off a fifth part of the public debt of the Commonwealth. This was still great, compared to later times, although not so large at it had been at a former period ; for the federal government did not assume the whole debt of the state, growing out of the war of the revolution. Massachusetts had expended large sums for her own particular defence, by calling out the militia on numerous occasions, and becoming liable to pay both their wages and their rations. On one occasion, every fourth man was thus ordered out, from some counties, for protection of the State or of a neighbouring one, then invaded by the enemy.

The population of Massachusetts in 1800, including Maine was 423,000. In 1790, it was only 380,000 ; and in 1810, the census gave 473,000 ; and in 1820 upwards 500,000. But emigrations were continually taking place, from the State to other parts of the Union.

The character of Governor Strong, both as a politician and a man, is further illustrated, by the following declaration in his public address to the Legislature, on being chosen a second time to the office of Chief Magistrate. He was sincere and without disguise in all his professions. "My best endeavours will be continued to advance the reputation and welfare of my fellow citizens; to preserve their rights and privileges unimpaired; and to select those for public office who are most distinguished for abilities and integrity, by whatever name of political distinction they may be known," A Chief Magistrate of such conciliating and magnanimous views must disseminate a salutary influence in society, and be a great blessing to a republican community.

In 1802, the Legislature provided for the erection of a State Prison, or Penitentiary in Massachusetts, to be located in Charlestown, in the vicinity of the metropolis and near to the tide waters of the harbour. The appropriation, first made for the purchase of land and the construction of the necessary buildings, amounted to one hundred thousand dollars. But a large additional sum was voted and expended before the buildings were completed. They were calculated to hold one hundred convicts, with the necessary work shops. In a few years, after the system went into operation, the prisoners far exceeded that number. Sometimes, there were nearly three hundred sentenced to confinement and hard labour in the prison, as a punishment for their crimes.

The punishment of whipping, and sitting in the Pillory &c. in public, had already been abolished; and those convicted of crimes against society were

sentenced to solitary confinement and labour. Burglary, which in every form and degree, was before punishable with death, was now considered, by the statute, a capital offence, only when the house-breaker was found armed with a deadly weapon, or gave evidence of an intention to commit murder, as well as to rob and plunder.

The great object of the projectors of this establishment was to give employment to the lawless depredators on society and their fellow-men ; and if possible, to effect their reformation, by solitary confinement, where they would have opportunity for serious reflection. But the results were not altogether so favourable as many had anticipated. This was supposed to be owing, however, not so much to any error in the theory, as to a defect in the accommodations of the Penitentiary, or in the government of the convicts. Solitary confinement, in fact, was not realized. The buildings were not adequate for that purpose.\* Several criminals

\* "The general intention of the physical regimen is to preserve the prisoners in the State they are, and to restore them to society, as strong and in as good health as when placed in the prison. But the moral regimen is expected to do more ; for it ought to make them better than when they were sentenced and confined. If they are during, confinement and at its close, as much inclined to idleness and vice, as they formerly were, the moral discipline of the Penitentiary must be radically defective. Every punishment which does not aim to correct and reform, as well as to secure society, is unjustly arbitrary, and therefore tyranny or cruelty. It serves only to irritate the criminal, and make him more inimical to society and to his fellow men. The object of moral regimen should be to correct this error or defect. A convict is supposed to be incorrigible ; and is therefore, distrusted and neglected ; and thus placed in a condition where nothing presents itself to his mind, but temptations to do wrong ; to commit, what, in a conventional sense is a crime, for his own support and existence. The means of

were confined in the same apartment; and this served rather to corrupt than to reform. For one or two old offenders, more depraved than the rest, were often known to teach the younger members the means of vice and iniquity, of which they were before ignorant.\*

For the first time, in Massachusetts, the Electors of President and Vice President of the United States, were chosen, in 1804, by a general ticket. In 1800, they were appointed by the Legislature; and the measure was a very unpopular one. There were loud complaints against it, at the time; and it was said the rights and privileges of the people were infringed thereby. The constitution of the United States provides, "that the Electors should be chosen in such manner, as the Legislatures of the respective States should direct." It was therefore, concluded, that the Legislature could not justly appoint or choose the Electors; but only direct and prescribe the mode, in which they should be chosen by the people. The former measure was pretended to have been adopted, by those opposed to it, with party views, to gain all the votes of the State for Mr. Adams. The plan of voting for all the Electors on one ticket, instead of choosing in separate districts, was supposed by

employment and usefulness should be provided; he should be considered capable of reformation, and of becoming a really good citizen—all encouragements given to this end—and the salutary effects on him would, probably, be correspondent to the benevolent intention in the public."

\* At a much later period, and after repeated representations of the Warden of the Prison, and the urgent recommendations of the Governor, new buildings were erected, so as to admit of placing one convict only in a room, during the night.

many to be for a similar purpose. The members of the Legislature were generally opposed to President Jefferson ; and it was believed, that, as there was a majority of the citizens in the State dissatisfied with his political principles and measures, a general ticket would result in the choice of Electors, who would give their votes to one of different opinions and policy.

Those who proposed and voted in favour of a general ticket, were much disappointed at the result. The Electors chosen were candidates friendly to the re-election of Mr. Jefferson ; and he accordingly received the vote of the whole State.—But if the Commonwealth had been divided into districts, as it was in 1796, the majority of Electors would have been of the federal party, who would not have given their votes in favour of Mr. Jefferson. This issue was justly a matter of triumph with the democratic or anti-federal party. It was as unexpected to them, perhaps, as it was to their political opponents. They considered the general ticket, as a party measure ; and having gained this election, they were sanguine of success, in the State elections for the succeeding year. In this expectation, however, they were disappointed. Governor Strong was chosen again, in the spring of 1805, in preference to Mr. Sullivan, who was the opposing candidate. For some reason, Mr. Gerry withdrew from the electioneering contest, at this period.

The result of the election, in 1804, for persons to vote, in behalf of the State, for President and Vice President, of the nation, served to show, that there were some citizens who would not blindly adopt all the measures of their party ; but would

vote and act according to their own sense of propriety and justice. Probably, there are always more or less of these moderate and impartial men in society. Where there are parties, some more ambitious or active characters will take the lead, and assume the right to propose and recommend, if not to dictate the course to be pursued—On finding their measures and conduct very generally correct, many who have not time to examine and inquire into the real state of affairs, will be ready to decide and believe, as the more intelligent or active of the party do. Still, they may be honest, and in a great measure independent. For when changes are proposed, and a different policy adopted, it is found that they are cautious and guarded; and not unfrequently, dissent from the opinion of those, whom they had been accustomed to respect and to follow.

At this period, the political excitement was as great, perhaps, as it had been for several years previously; and party disputes as fierce and bitter. The French government refused indemnification for former spoliation on our commerce, and continued to confiscate American property, both on the high seas, and in ports and harbours where they had power to do it. This was done by the French Rulers, with the pretext, that the government of the United States submitted to improper and ambitious conduct from the British. Mr. Jefferson was unable to obtain any redress for the past, or security for the future. And many supposed he was too submissive to the unjust and insolent conduct of the French government. It was thought that more resentment should have been exhibited by the federal administration, for the injury done, and that a

more lofty and decisive tone should have been assumed, to obtain justice, or to ensure respect.—The people of Massachusetts were much divided in opinion, and feeling, as to the wisdom and propriety of the policy of the general government, at this period.

In 1805, an act was passed against duelling.—Those who first made the challenge, if convicted, to be punished as felonious assaulters, and disqualified from holding any office in the State, of honour, profit or trust. Those who accepted a challenge, and those who stood in the character of seconds, were also to be liable to the like disqualifications. About this period, and while Mr. Strong was in the chair, several laws were passed of a general character, which were considered very beneficial, and long remained in force, without alteration. This year a law was made, requiring the Selectmen or Overseers of towns, to prepare lists of all legal voters, who were allowed, by the Constitution, to vote, either for town or state officers. Laws were enacted for the preservation of shell-fish within the waters of the State; for regulating the weight, and the packing of beef and pork; and for the manufacture of nails; the statute for the support of public worship, revised; the contracts of the people with the teachers of religion for their support, were made legally binding; still any citizen was to pay the clergyman of the denomination to which he belonged, and on whose instructions he attended, though not within the limits of the town or parish where he resided.—The Supreme Judicial Court of the State was differently organized. The law term of the Court, as it was called in the act, was to be holden by at least, three of

the Justices, who were to determine questions of merely a law character, and wherein there was no inquiry as to facts, and also to try persons charged with crimes, which required a capital punishment. The *nisi prius* Court might be holden by one Justice, for Jury trials; from whose judgment, an appeal was allowed to the whole Court, on points of law, as stated by a single Judge.

## CHAPTER V.

Governor Strong re-elected in 1806, but with much opposition....Law on Plantation Votes....Mr. Sullivan chosen Governor, for 1807....Embar-  
go.....Senators Pickering and Adams....Complaints of the Embargo....  
Governor Sullivan not intolerant.... Courts of Session....Pretended Plot  
to destroy the Union....County Attorneys...Death of Governor Sullivan....Lieutenant Governor Lincoln.

Mr. Strong was elected Governor in 1806, for the seventh time, in uninterrupted succession; but this year, it was by a very small majority. And there were so many blunders and informalities in the return of the votes, and such a disposition in the members of the General Court, the greater portion of which were his political opponents, to set him aside, that his election was not officially declared until the tenth day of the session. Mr. Sullivan was the other candidate: and Governor Strong's majority was only four hundred. An attempt was made, in the Senate, to prevent his having the votes of several towns, merely for the omission or misplacing of a letter in his name, when no one doubted that they were designed for him. Several unincorporated plantations in Maine gave in votes also, for the gubernatorial candidates: and they were chiefly in favour of Mr. Sullivan. Objections were made to receive these votes, in the belief that the constitution did not intend it; and previously to this year, they had been generally, if not invariably rejected. The constitution allows

the inhabitants in plantations to vote for Senators, but not for Representatives ; and it further provides, that those who were qualified and had the right to vote for Senators and Representatives might also vote for Governor. Those who were in favour of receiving such votes argued, that the citizens who were allowed to vote for either Senators *or* Representatives, ought not to be debarred from voting for Governor ; but others contended, that only such were intended by the constitution as were allowed to vote both for Senators *and* Representatives. A bill was prepared, at this Session, June 1806, providing, that the votes given for Governor, by the citizens living in unincorporated plantations, should thereafter be admitted, and implying that such was the fair construction and intent of the constitution. It was not laid before the Governor for his consideration and signature, until the last day of the session. He did not approve of it, nor return it to the Legislature with his objections. The second day of the following session, he returned the Bill, without his approbation, and stating his objections to it. A majority of the General Court voted, that it had already become a law, because he did not return it within five days, the period provided in the constitution. This was considered a very unreasonable and arbitrary act.—The five days, allowed the Governor to make his objections to any Bill, of which he did not approve, evidently implied five days of the session of the General Court. If he had returned the Bill, with his objections, on the fourth or fifth day, after he received it, they could not be considered by the Senate and House ; for they were prorogued before. By voting that the Bill had become a law,

under the circumstances of the case, the General Court violated or disregarded the spirit of the constitution; For there were not two thirds of the members in favour of the Bill, as is required, when the Governor objects, but a bare majority. The language of the constitution was altered in 1820, on this point, so that the Governor should have five days, while the General Court was in Session to consider a Bill, and make his objection.

The majorities in both branches of the General Court, this year, were of the party called democratic or republican; but the two great political parties were nearly equal; and as each\* contended zealously for power, the dispute still continued, and too often with asperity and personal abuse, respecting the correctness of the policy pursued by the national rulers. President Jefferson and his cabinet were charged with a wish to promote the ambitious views of France, inconsistent with a just neutrality, and calculated to provoke her rival, Great Britain. Spoliations on the commerce of the United States were frequently made by the French vessels; and when remonstrances were made against the injustice of such treatment, and indemnification urged, the government of France attempted to justify its conduct, by alleging that the English nation had set the example, and had been very unjust in its conduct towards the United States. It was supposed, by one party in the State and Nation, that more spirited and decided measures in the general government, would have induced the French rulers to refrain from acts of rapine

\* The Executive Council was composed of men of different polities from the Governor; and therefore very little business was done in that department, during the year.

and injustice; but, the other party acquiesced in, or fully approved of the measures of the administration, in the belief that it was guided by patriotic motives, and was pursuing the wisest course, in the existing state of Europe.

In 1807, Mr. Sullivan, the candidate nominated in opposition to Mr. Strong, was elected Governor of Massachusetts, but he had only a small plurality of the votes. The majority of members chosen for Senators and Representatives this year, were of the democratic party. So that all the departments of government were of this character, for the first time, after the State was divided into federal and democratic parties. This circumstance, probably, served to induce the national government to continue its restrictive and non-intercourse system, as the wisest policy for the United States, to shew its dislike of the conduct of the belligerents in Europe; and as the surest way to avoid collisions, and to preserve peace. It was from the northern and commercial States chiefly, that opposition was manifested to the policy of President Jefferson and his Cabinet. And a change in the large State of Massachusetts, in its Governor and Legislature, who were political friends to the national rulers, was seized upon as evidence, that the impartial and patriotic approved of measures, against which there had been so much clamour.

Mr. Sullivan had been a Judge of the Supreme Court, and Attorney General in Massachusetts for several years. And he was a man of great talents and industry. When first proposed as a candidate for Governor, he was charged with some improprieties of conduct in his former years—But these were found to be unjust, or much exaggerated.

Governor Sullivan was much less of a party politician, than many of his supporters wished or expected. He was, probably, disposed to act, in his new public station, with impartiality and candour—But the feelings and views of some of his friends would scarcely allow him to pursue such an honourable course—When he was elected Governor, in 1808, the Legislature had become of a federal character again; and his counsellors were therefore, of this class of citizens. He is said to have observed to a friend, that he had less difficulty with this council, than with that of the preceding year. His public speech to the Legislature, when first chosen Chief Magistrate, in 1807, contained no party sentiments; but referred to the conduct of the general government with approbation, and exhorted the citizens to abstain from virulence and abuse towards the national rulers.

It was in the course of this year, that an Embargo was laid by Congress, on the recommendation of President Jefferson, without period or limitation. It had been usual in passing acts of restriction on commerce, to specify the time of their continuance. This feature in the Bill gave alarm to many, particularly to those who were interested in commercial pursuits. And it was feared, there would be great difficulty at any future time in obtaining a vote in Congress for a repeal. The President was not considered as a very warm friend to commerce, and had previously expressed a wish, that the people of the United States would have less intercourse with European and foreign nations, and would be content to be cultivators of the ground. So long as the President was in favour of the Embargo and non-intercourse, his influence

would enable him to prevail on a sufficient number in the Senate to prevent its repeal. But if the law had been for a limited time, it would be suffered to expire at the period formerly fixed.

The measures of the Embargo produced a great sensation in the Eastern States, and in some others also. It was said, that the governments of France and Great Britain could not be coerced by it. That the injury would be chiefly felt by the citizens of the United States; and that, if it was designed for the safety of the merchants, it was unnecessary, as they were intelligent men, and could best judge what was the danger of sending their vessels and property abroad. A greater portion of the citizens of Massachusetts probably, than of any other State, in the Union, suffered by this severe and unexpected measure. The regular business of many of them was suspended. The vessels loaded for foreign voyages, as well as other ships were much deteriorated, if not wholly lost. The vessels, not loaded, were hauled up, and dismantled; and served only to excite regret for individual losses, or censures on the policy of the national government.

If that feature in the Embargo Act, which gave to it the character of indefiniteness and permanency, was alarming to the people generally, the more intelligent saw in the measure a reason for greater dissatisfaction. The considerations, upon which the President recommended the measure to Congress, publicly, were not such as to satisfy them, that the law was necessary for the protection of commerce and the security of the maritime rights of the nation. There did not appear to be a sufficient call for such a measure, in the documents laid be-

fore Congress by the President, when he sent a message advising its adoption. The vote of John Q. Adams, one of the Senators of Massachusetts then in Congress, in favour of an unlimited Embargo, so injurious to the interests and so repugnant to the feelings of the people of the State, generally, was also the occasion of much surprise and animadversion, among the political characters of that day. He could not be ignorant of the injurious effects of such a measure upon the pursuits of his constituents. And it was at first believed, that some very strong reasons operated in his mind, to induce him to vote for the act, which had not been made public. But, when it was found, that he voted without giving any reason, except that the President had advised to the measure, and declared, that it was not a time to inquire nor to deliberate, the citizens were the more surprised, at his conduct; as he had not only deserted the cause and interests of the people, whom he represented, but avowed as the sole reason for his vote, that the Executive was in favour of such a proceeding. This was surrendering his own judgment to that of the President, instead of acting either for the benefit of his own State, or for the honour and welfare of the nation. The federal party, which Mr. Adams deserted by this conduct, imputed his vote to a desire to conciliate the favour of President Jefferson and his friends, who were then a large majority of the nation; but the latter affected to see in it, only a devotion to the public good, and a resolution to act according to the convictions of his own mind.

Timothy Pickering, the other Senator in Congress from Massachusetts, when the Embargo Act

was passed, opposed the measure, as improper in principle, on account of its being unlimited in time; and as inexpedient and impolitic, in the condition of the country, and the ostensible purpose, for which it was proposed. He addressed a long letter to Governor Sullivan; but intended for the Legislature and people of Massachusetts, to whom he considered himself bound to give his views on the subject. The Governor did not immediately publish the letter. For this omission, he was severely blamed; as it was addressed to him as Chief Magistrate of the State, to be communicated to the Representatives of the people. When a few weeks after, the letter of Mr. Pickering was published, it convinced a great portion of the citizens of Massachusetts, of the inexpediency of the Embargo; and some were even led, to suppose that it was designed to favour the ambitious views of the Emperor of France.\*

The Embargo law was so injurious to the prosperity of the State, and consequently, so unpopular, that a change of political opinion soon took place in Massachusetts, to a considerable extent. The people withdrew their confidence and support from candidates for public offices, who were

\* Soon after Mr. Pickering's letter was published, Mr. Adams saw fit to address one, through the press, to Mr. Otis; in favour of the Embargo. It is a remarkable fact, that in this letter he aims to show the policy and wisdom of the Embargo law, by referring to an act of the British Ministry, which was not known when the Embargo was laid. He admits that the papers transmitted by President Jefferson did not warrant the measure; and he would justify his vote, by resting on a cause, not known to exist. But when a politician departs from a strait-forward course, the error of an anachronism is not the only one he is likely to commit.

friendly to the embargo, and to the general policy and measures of the national government. Governor Sullivan, indeed, was again elected in 1808; but the majority, both in the Senate and House of Representatives, was of the federal party. This was a great disappointment and mortification to the friends of the restricting system, and the supporters of Mr. Jefferson; for they had calculated, that the government of the State would long continue in their hands. Whether Mr. Adams was of this opinion, when he declared himself in favour of the policy and administration of President Jefferson, is not known. But there were not wanting, those who believed, that he expected when he voted for the embargo, the democratic party in Massachusetts would remain the majority. In June 1808, about nine months before the time would expire, for which he had been elected a Senator in Congress, Mr. Lloyd was appointed to succeed him. Mr. Adams was so offended with being thus superceded, that he resigned his seat in the federal Senate for the residue of the time he had then to serve.—The reason given by him, was, that, as it was apparent his constituents did not approve of his political conduct, he thought it proper to retain his seat in the Senate no longer. But Mr. Adams must have known sometime before the election of Mr. Lloyd, that his vote on the embargo, as well as on some other questions, agitated in Congress, in 1807, was not approved by the people of Massachusetts.

The same spirit and policy, which induced the national government of 1807-1808, to pass a law for an Embargo without necessity, and without fixing upon a certain term of time for its termination, led to additional acts upon the subject, re-

straining the people almost from the freedom of going upon the ocean at all, and imposing regulations even on the coasting trade from one State to another in the Union. There was an interdiction against carrying the necessary article of corn from a Southern to a Northern and Eastern port, without a special license and approbation of the President. In pursuance of this regulation, the President of the United States requested Governor Sullivan to give him information who would be suitable and proper persons to allow to carry flour from a port in a Southern State, to Boston, or some other port in Massachusetts. This was considered as an arbitrary and oppressive measure. Yet those, whose party views were so strong as to judge rather from feeling and prejudice than reason, justified the proceeding. The article of fish was not allowed to be carried to a foreign market, though there was a great quantity, beyond what was necessary for home consumption ; and thus those engaged in the cod fishery were subjected to a great loss.\* Loud complaints were heard in many parts of the State, because of these acts of the national government ; and yet many professed to believe, that these measures would induce both England and France to treat the United States with more respect and justice ; that there might be “ reasons of State ” to justify them, of the validity of which the people generally, could not judge.

In the course of the year 1807, a proposition was made and adopted in Vermont, for an alteration of the federal constitution, giving power to the na-

\* A petition was sent from Boston, for the exportation of fish, which were decaying. But the petition was not granted.—Mr. Adams was Chairman of the Committee, to which it was referred.

tional Executive to remove the Judges of the Supreme Court of the United States from office, on an address of the majority of Congress, without impeachment for any high crime or misdemeanour. The proposition was laid before the Legislature of Massachusetts for its consideration; and it passed in the House by a vote of 92 to 44. President Jefferson approved of such a change in the constitution. He was not in favour of the absolute and entire independence of the judges; and some recent decision had given him great dissatisfaction, particularly the opinion of the Chief Justice on the trial of Mr. Burr for high treason. The influence of Mr. Jefferson, at that period, was very great.— His political friends and supporters were desirous of carrying all his plans and wishes into effect.— But in this plan, he did not find the majority to support him.

The most violent of the democratic party in the State, attempted to introduce a system of political intolerance and proscription, during the administration of Governor Sullivan. But he generally resisted and prevented the execution of their plans.— several Sheriff's however, were removed from office, by the Supreme Executive, during his administration; under a pretence, indeed, by their political opponents, of incompetency and unfaithfulness, but without party views, they would have been suffered to remain. This was considered arbitrary conduct, though not strictly unconstitutional or illegal. For in all cases of appointment to office, by the Governor and his Council, unless it was expressly otherwise provided, as it is in all judicial officers, it was supposed there was a right to remove old incumbents and to appoint others in their places.—

The tenure of office for the judges was that of during good behaviour ; but as to most other public civil officers, who received their appointment from the Governor, he, in fact, had the right to supersede them, at his pleasure, with the advice and consent of the council. Their commissions were so expressed, as to indicate this right. But the power was not often exercised, except in case of mal-administration in office.

During the administration of Governor Sullivan, the Courts of Sessions in the several counties of the State, were organized anew. Formerly, these Courts were composed of all the Justices of the Peace within the county ; and they had jurisdiction as to public roads, support of paupers, &c.—A law was now passed providing that the county Courts of Session should be composed of three, four, or five persons, according to the population of the shire ; one of these was appointed Chief Justice, and the others, Associate Justices. A law was also made for the appointment of an attorney in every county, who in the absence of the attorney general, should perform the duties usually discharged by that officer. The practice had been for the County Court to appoint an attorney, at the court, or for every year.

It was a great reproach to the democratic party, that the Treasurer of the Commonwealth, who had been appointed by them, to the exclusion of Mr. Jackson, who filled the office with fidelity and talent, became a public defaulter, during the administration of Governor Sullivan, to a large amount. Mr. Jackson was a man of great punctuality and an able financier ; but he was obnoxious to the democratic party ; and Mr. Skinner chosen in his

place. He was so unwise and indiscreet, as to speculate with the public money—and was unable to refund, in the amount of \$70,000. His sureties were numerous, but not opulent. He had been put into the office, as a reward for his zealous services in favour of the democratic party. The Commonwealth eventually lost a considerable sum by his default and that of his bondsmen.

On the demise of Governor Sullivan, which was in December 1808, Lieutenant Governor Lincoln occupied the place of Chief Magistrate for the remainder of the political year. He was less tolerant and elevated in his political feelings than Governor Sullivan had been. It was generally believed, that he urged the Governor to adopt a severe and exclusive policy, by which he might proceed to remove all the federalists from office in the State, and to appoint those of the democratic party in their place. The vote of the people, by which the majority of their rulers was of a particular political sentiment, he argued, was indicative of their wishes. But Governor Sullivan could not be persuaded to adopt this exclusive policy. The Lieutenant Governor in his speech to the Legislature, in January 1809, referred to the meetings of the citizens, which had been holden in several seaport towns, to remonstrate against the restrictive system and the Embargo, and to point out the injuries and oppressions which were consequent thereto. He condemned these meetings, as highly improper and as manifesting a spirit of dangerous opposition to the government of the nation. His arguments convinced but a very few; for the citizens of Massachusetts always claimed the right to discuss the conduct of their public servants, and to

remonstrate against measures which they considered arbitrary and oppressive.

The year 1808 was a period of much depression to the business and of great trial to the patriotism of the citizens of Massachusetts. They could not perceive the necessity of the Embargo ; especially for so long a period ; and their privations and sufferings under it, excited their feelings in no ordinary degree. They complained loudly and constantly of its evils, and held meetings in many places to petition Congress for its removal, or to request the aid and interference of the Legislature. Individuals, on some occasions, at these meetings, and anonymous writers in the public papers, expressed themselves, under the influence of irritated feelings, in a manner not altogether justifiable or proper. Some considered an unlimited Embargo to be unconstitutional : and some even declared, that unless soon withdrawn, it would be resisted by force, and might lead to a dissolution of the Union.

But this was the language of suffering, and of a few insulated citizens, inconsiderately uttered. No body of men, either of the Legislature or of towns or counties, ever seriously advocated or proposed such a measure in Massachusetts. Nor was there ever just reason to believe, that any public characters, or individuals who had the confidence of their fellow citizens, meditated the dissolution of the Union, for any purpose whatever. The members of the Legislature remonstrated against the Embargo, and pointed out its impolicy and its destructive effects. The people in many towns did the same ; and in some cases expressed their fears of an undue foreign influence, and an utter disre-

gard of commerce, as among the causes of that oppressive measure. It was not until some years later, that the story was made and circulated, for party purposes, no doubt, that a portion of the patriotic citizens of Massachusetts was plotting, with the agents of a foreign nation, against the unity, the peace and honour of their own country.

The charge was as vague, as it was unfounded; and it was necessarily vague, in proportion to the absence of all evidence and proof. When this accusation was first made, it was privately and only to a few, that it might produce all the possible bad effects, which were intended, before those accused could have an opportunity to shew their innocence. When an inquiry was afterwards made both by the State and federal governments, no evidence could be furnished to lead any intelligent and impartial citizen to retain even a suspicion of the truth of the accusation.\*

\* On an examination of John Henry, who professed himself a British agent, before a Committee of Congress, in 1809, it was found that he had no evidence to give, exonerating either any bodies of citizens, or individuals, who had engaged or proposed to engage in the dismemberment of the Union, or a purpose to join themselves to Great Britain. The most devoted friends of the national administration, who had strong prejudices against the citizens of Massachusetts and other Eastern States, declared there was no evidence of the existence of such a plot or purpose. Henry was an adventurer, and took advantage of the suspicions and prejudices of the administration to obtain money from the government. And he received \$50,000 for imposing upon the President and his Cabinet!

In 1812, when an inquiry was made by the Senate of Massachusetts, as to the past concern of Mr. Otis, who had been President of the Senate, and of Mr. Bigelow, who had been Speaker of the House of Representatives in such a project, a large majority of that Body, which was then democratic, expressed an opinion decidedly and fully exonerating them from

In January 1809, twelve months after the Embargo was laid, an additional act was passed by Congress, to enforce it under the pretence, that evasions of the first law had taken place, and that vessels, cleared out only as coasters, had carried cargoes to Europe. This act was more strict and severe, than the first law of December of 1807, in its operation on coasting vessels. The various regulations and the expences, to which the coasting trade was subjected by this statute, were so oppressive, that the people, especially, in the sea-port-towns, became very discontented; and, as they had no hope of redress from Congress, they made known their grievances to the Legislature of the State. These remonstrances and petitions were very numerous, and a committee of the General Court was appointed to consider them. The committee reported the following resolutions in February, which were adopted by both branches of the Legislature.

all impropriety of conduct in relation to the subject. No one who laid aside the prejudices of party believed them, or any other public men in the State, guilty of the charge.

In March, 1812, Mr. Madison transmitted to Congress some documents "designed to prove that, at a then recent period, a British agent had been secretly employed, in some parts of the Union, and particularly in the State of Massachusetts, in fomenting disaffection to the government of the United States, and in intriguing with certain individuals for that purpose." Mr. Lloyd a Senator from Massachusetts moved that the Secretary of State be directed to lay before the Senate the names of any persons in the United States, and especially in Massachusetts, who had, in any way or manner whatever, entered into, or most remotely countenanced such a project. The President replied, "that the department of State was not in possession of any names of persons in the United States who had, in any way or manner, entered into or countenanced the project or views, for the execution or attainment of which, John Henry was, in 1809, employed by the Governor of Canada."

“That the act of the Congress of the United States, passed on the 9th day of January in the present year for enforcing an act laying an Embargo and the several acts supplementary thereto, is, in the opinion of this Legislature, in many respects, unjust, oppressive and unconstitutional,\* and not legally binding on the citizens of the State. But notwithstanding this opinion, in order finally, to secure a certain and permanent relief, it is earnestly recommended to all parties aggrieved by the operation of this act, to abstain from forcible resistance, and to apply for remedy, in a peaceable manner, to the laws of the Commonwealth—That a suitable remonstrance be prepared and forwarded to the Congress of the United States, from this Legislature, expressing their opinions and feelings on the subjects of complaint, contained in the petitions of the citizens, and particularly urging the repeal of the said act of Congress, of January 9th 1809—That the Legislature of this Commonwealth will zealously co-operate with any of the other States, in all legal and constitutional measures, for procuring such amendments to the constitution of the United States, as shall be necessary to obtain protection and defence for commerce, to give to the Commercial States their fair and just consideration in the government of the Union, and for affording permanent security, as well as present relief from the oppressive measure, under which they now suffer.”

\* It was also solemnly pleaded by the most learned Council, in the Courts of the United States, in cases, arising from alleged breaches of the Embargo act, that the law was unconstitutional ; and Jurors failed to give a verdict of guilty, because they considered the law improper, and not because there was want of evidence to convince them the law had been violated,

The people had become impatient, under their privations and sufferings ; and sometimes used the language of menace, which the more wise and prudent disapproved. About the time, the resolutions above recited were adopted, on the petitions of the citizens who had applied to the rulers of the State for relief, the two branches of the General Court voted to have public religious service, to unite in devout supplication to God, for deliverance and favour. They invited the Lieut. Governor and the members of the Council to attend. The latter readily joined in the service ; but the Lieut. Governor declined ; and intimated, that he considered the act hypocritical and designed for party purposes.

## CHAPTER VI

Mr. Gore elected Governor in 1809.....His character and administration.... Settlers in Maine quieted.....Mr. Gerry chosen Governor in 1810.....He approves the measures of the federal government.....Re-chosen for 1812. Adopts an exclusive political system, and denounces those who differed from him as to national policy.....Courts altered.....Clerks, Sheriffs and Registers of Probate removed from office, merely on account of their political opinions.....Expenses of 1811, for Representatives.

The State elections for 1809, were attended with as much spirit and activity, as on any former occasion. The people were groaning under the deleterious influence of the Embargo, and other measures unfavourable to commerce ; and the conduct of the national government was considered by the majority in Massachusetts, neither wise nor magnanimous. Christopher Gore, the candidate supported by the federal party, was elected Governor ; but not by a very large vote. He received 2,500 more than were given to the other candidates. Mr. Levi Lincoln, the former Lieutenant Governor, received the suffrages of the other political party. The government of the State was administered by Mr. Gore under the influence of the most honourable and patriotic views. But it was still a period of great political excitement ; and, on many occasions, the bitterness and rancour of party feelings were unhappily apparent. Mr. Gore had been much in public life, and was particularly qualified for the office of Chief Magistrate. Law was his

profession, and politics had long been his study.—He was federal Attorney for the district of Massachusetts, by appointment of President Washington in 1790. Afterwards he was a commissioner to England, under the treaty of 1795, to adjust the claims of American merchants on the British government, for spoliations committed on the high seas, on the vessels of the United States, in 1793. For several years, he was a Senator in the State Legislature from the county of Suffolk. He had also been the candidate of the federal party, for Governor, the year preceding.

At the session of the Legislature, in June 1808, a law was passed to favour that class of settlers in Maine, who had taken up and cultivated land without purchasing of any one, or knowing who were the real owners thereof. This description of citizens was numerous; and the reason assigned by most of them was, that it was impossible to ascertain who had a just right and title to the wild lands on which they had settled. Owing to incorrect descriptions of tracts of land purchased, several years before, and still claimed by non-residents; there were several opposing claims to almost all the wild lands in that section of the State. The settlers were sued for the lands they had taken up, by different claimants; and in many instances subjected to great vexations and expense. The law provided that the settlers should be quieted in their possessions, by paying to the true owners of the land, a sum, at which it would be valued, if then unsettled or uncultivated; or, if they preferred giving up their possession, that the persons adjudged to have the true title should pay to the occupants the amount which the improvements, in build-

ing and cultivation, had added to the worth of the land, in the market, or at a fair and impartial valuation. The law provided, that the sum awarded to the owner of the land, was to be paid within a short period. This condition was considered a hardship ; for very few of the settlers could possibly make the whole payment within the time required ; in which case, they would fail to receive any benefit from the statute. In 1809, during Governor Gore's administration, an amelioration of the act was made, and the settler was allowed more time to make payment for his land.

In 1809, several companies were incorporated, within the State, and chiefly in the county of Berkshire, for the manufacture of woollen cloths. The business had been prosecuted by some of the enterprising citizens of that county, to a considerable extent, for a few years preceding. From the early settlement of the country, indeed, a great portion of the woollen cloths, worn by the poorer class of people, was made within the Commonwealth.—Most families, in the country towns, both of the interior and on the sea-coast, manufactured their own woollens. For every farmer was in the habit of keeping sheep, according to the extent of his lands. At the beginning and during the war of the revolution, common farmers, owning only 80 or 100 acres of land, besides clothing their own families, furnished blankets, coats and other woollen garments for the soldiers, to a great amount.

Within the period of 1790 and 1810, a considerable change took place, in the style of living ; particularly among the merchants, who had acquired large property by their commercial enterprise. More elegant dwellings were erected, and more

costly furniture provided for them. The dress and mode of living, of this and some other classes of citizens, became more expensive than it had formerly been. The opulent imitated the equipage, furniture and style of the higher orders in Europe; and many others copied the examples of their rich neighbour. This was the natural consequence of increase of property and a more general intercourse with Europe. But, in some cases, it was evident, that the style adopted was beyond the means of the individuals; and that the change was not in favour of the amount of social enjoyment.

Before the State elections took place in 1810, the general government had relaxed somewhat, in the measure of non-intercourse, and restrictions on commercial pursuits; and there was a change in the minds of a portion of the people, more favourable to the national policy. Mr. Gerry, the candidate of the democratic party, which approved of the measures and sentiments of the national administration, was elected Governor over Mr. Gore, who was again supported for the office, by the federalists. This result was a matter of triumph to the political friends of Mr. Gerry, though he received the votes of only a small majority of the people.

Mr. Gerry had been the candidate of the democratic party for Governor, on several former occasions; but did not succeed until this year. He was one of the active patriots of the revolution, and rendered great service to the State and Nation.—In 1776, he was one of the delegates from Massachusetts to the Continental Congress, and signed the declaration of independence. And he continued a member of that body for several years after;

as well as for a few years after the federal constitution was adopted. He was also a member of the convention which framed the constitution of the United States ; but had such strong objections to some parts of it, that he did not give it his signature.

The defects in the character of Mr. Gerry, as a public man and a politician, were indecision, and a yielding to the flattery or importunity of others. It was expected, that he would favour his friends and supporters ; but he, probably, did not intend when he was first elected, to give his assent to a system of proscription, by which his political opponents were to be treated as not having the common rights of citizens in the State. But his advisers, the leaders of the party, to which he was indebted for his elevation to the chair of chief magistrate, urged the adoption of an exclusive system ; and during the second year of his administration he approved of the laws, passed by the Legislature, by which offices, which had been long held during good behaviour and a faithful discharge of duty, were to be filled according to the pleasure of the Executive ; and thus, not only offices, which became vacant by death or resignation, were filled by the political friends of the Governor ; but many faithful and able officers were removed, to make way for others who would be true to the dominant party.

For 1810 and 1811, the two years, in which Mr. Gerry was Governor, the majorities in both branches of the General Court, were democratic ; so that, in most measures proposed to be adopted, there was a harmony of opinion and purpose, between the Chief Magistrate and the Legislative Body. From the time of Mr. Jefferson's acces-

sion to the Presidency of the United States, Governor Gerry had been ranked among the friends of the national administration. He probably considered President Jefferson and President Madison, who succeeded in 1809, more republican, than their predecessors were, and their policy better calculated to secure the rights and liberties of the people. In all his public communications, he spoke highly of their political conduct, and confined his favours to such as were considered their cordial and active supporters.

In his public speech to the General Court, June 1811, on being a second time chosen Governor, Mr. Gerry was direct and full in his expressions of approbation of the policy pursued by the national government; and was more explicit in his declaration of the improper conduct of such as condemned that policy, than during the preceding year. He seemed to consider all discussions in the public papers, and all resolves passed at public meetings of the people, censuring the conduct of the national and state rulers, as a great impropriety, and as tending even to the subversion of the government.

He did not recollect, perhaps, that it was in this way, President Adams was superceded in 1801, and Mr. Jefferson placed in his stead; an event hailed, by all Mr. Gerry's political friends, as auspicious to the welfare and liberty of the people.— But in all free countries, those in opposition to the existing administration, must be allowed to exercise the right of discussing and expressing their opinions on the public conduct of their representatives and rulers; otherwise their boasted freedom is merely nominal. In all such cases, however, it is impor-

tant that the party which complains and censures, be governed by a spirit of patriotism and candour.

The dominant party in the State, had this year such a majority, that they seemed confident of retaining the power in their hands for a long period: and they concluded they might provide offices for their particular friends, without any risk of losing their hold on the favour of the people. The inferior or county courts were organized anew; and this gave an opportunity for the appointment of many of their adherents. A law was also passed giving the appointment of clerks of the Judicial Courts through the State to the Governor, whereas they had before been selected and commissioned by the judges of the respective courts; and the Governor was thereupon persuaded to remove the clerks then in office, who were of the federal party, and to appoint others in their places. Registers of Probate and Sheriffs were, likewise, generally superceded by the political friends of the Governor.

What added much to the surprise and dissatisfaction of the people generally, was, that in this political proscription, the veteran patriots of the revolution were subjected to privations and loss of office, as well as others who had less of public services to boast of. The power of a party stript several eminent characters of public office, whose conduct was without reproach, and whose services had been very great in behalf of the State, as if they had been charged with some heinous crime against the liberties or the peace of the republic.

An Act was passed, in 1811, on religious liberty, which alarmed many of the sober citizens of the State; for it afforded facilities, to such as were

disposed, to evade the plain injunctions of the constitution ; and gave far greater latitude to the people, in forming religious societies, than had been ever before allowed. Every citizen had, already, perfect liberty of conscience, in his religious worship. But under this law, a man was excused from paying the religious teacher of the town or parish where he resided, although he and his family attended upon his public services, if he chose to connect himself nominally with another society, at a distance, with which he seldom worshipped. A very few persons, also, were authorised by this Act, to form themselves into a distinct religious society, and thus were excused from all contributions in support of the regular clergyman of the town, although they were of the same faith and denomination, and their worship was conducted by one of the laity. A few such societies were formed, and served as an apology for the almost total neglect of public religious worship and instruction, by those who belonged to them.

During the same year (1811,) a Bank was established in Boston, under the particular influence of the dominant political party, and called the State Bank. Such a company was proposed in 1807, but was not then incorporated. The capital was to be \$3,000,000. A few years after, it was reduced to \$1,800,000. From the manner in which the company was formed, and the political character of the directors and proprietors, it was supposed to be designed for party purposes. But the time soon passed away, when a monied institution for such objects could be popular ; and in a few years, the State Bank became as accomodating and liberal as any others in the commonwealth.

It was at this period, that the members of the General Hospital of Massachusetts were incorporated, consisting of most of the public characters, and opulent and eminent citizens of the State. Here was no distinction of political party; and it was grateful to perceive the benevolent, the learned and the rich, of every description, uniting their efforts for the establishment of a public asylum, for the sick and the insane of the human race, who had no place of shelter and relief of their own; or who might find that medical assistance, which their insulated situation denied them. The State contributed but little, comparatively, to the funds of the Institution. The public is indebted chiefly to the liberal donations of benevolent individuals for the means of building and of supporting these Hospitals; both the one, called the General Hospital located in Boston, and the one, called the Hospital for the Insane, situated in Charlestown.\*

The measures of the national government were such, at this period, that the most intelligent statesmen predicted, that a war with Great Britain was intended; and that it would probably be declared in a few months. Such an event was deprecated by the majority of the citizens of Massachusetts. For it would probably destroy a great part of the navigation of the country; and it was believed by many, that, under the guidance of a temperate and magnanimous spirit, the difficulties between the two governments might be adjusted, without a resort to hostilities. The people were ready to make sacrifices and to be subjected to great expenses in defence of their property and

\* The latter has since received the name of the McLean Asylum for the Insane, on account of a large donation by John McLean, an eminent Merchant of Boston.

their rights, if war was necessary. But they were not willing to engage in open hostilities with a powerful naval nation, while there was hope of preserving peace upon just and honourable terms. When they perceived that war was meditated, many withdrew their confidence from those who approved of a menacing and hostile attitude towards Great Britain, and gave their support to those whom they believed to be more pacific in their views. All admitted, that there were disputes to be settled, and evils to be redressed ; but many supposed, that good policy, at the time, required the United States to prefer negotiation to war.

It was also apprehended, that a war with England would not only be highly injurious to the commerce of the United States, but would serve to unite the destinies of France and America, the result of which would be fatal to the liberty and independence of the latter. The government of France, under a military despot, had become very insolent and unjust towards other nations ; and the most intelligent citizens in the United States expressed great fears from a political connexion with that government.

The speech of Governor Gerry to the General Court, in January 1812, was highly accusatory of the federal party, for supposed anti-republican principles, and for their opposition to the measures of the general government. He represented them as attached to monarchial principles, and more than intimated that they preferred the British government to that of the United States.\* The ex-

\* “ Are we not called upon to decide, whether we will commit the liberty and independence of ourselves and posterity to the fidelity and protection of a national administration, at the

pressions, in some instances, were so harsh as to be undignified ; and the spirit and language, in general, were not calculated to allay, but rather to increase the violence of party feelings. The speech must have been written under the full apprehension, groundless as it was, that the federal party was resolved to sacrifice the liberty and independence of the country, to gratify ambitious and selfish purposes.

Soon after this remarkable speech, the Governor directed the Attorney General and Solicitor General to examine the Newspapers published in

head of which is a Madison, supported by an executive department, a Senate and House of Representatives, abounding with meritorious patriots ; or to a British administration," [who proposed this ?] "the disciples of Bute, who wished to enslave these States, and to American Royalists, who co-operated with that government to bind us in chains, while colonists ? Is it not morally and politically impossible that a doubt can exist, in regard to the choice ?" Extract from speech of Gov. Gerry, January 1812.

It will appear strange to those, not personally conversant in the scenes and with the parties of that period, that the Chief Magistrate of the State should indulge in such suspicions and feelings ; or intimate them in public, without proof fully sufficient to justify them.

Jan. 1812—It was proposed, by a federal member of the House, and also of the Senate, to have a committee appointed to inquire and report to the General Court, what evidence there was of a British party in the State. But the motion was opposed by the political friends of the Governor ; and no committee was raised for the purpose, and no inquiry was ever made. It better served the purpose, of those who made the accusation, to deal in suspicions and dark suggestions than to have a full statement of facts. It was also believed, that the charge of an undue attachment to England against the federal party was intended merely to rebut or to keep out of sight the charge of too great partiality for France, which had been made as early as 1793 and 95, against the anti-federal party and the opposers of Washington's Administration.

the Capital, and report to him the number of libellous publications which they contained.\* He also wrote to Mr. Parker, a Justice of the Supreme Judicial Court for a copy of his charge to the Grand Jury, delivered at the opening of that court in Suffolk, in November preceding. The Judge had stated to the Jurors what constituted a libel; for several pieces had appeared in the public papers, which were supposed to be of a libellous character. The definition and the explanations of the learned Judge were not altogether agreeable to the political friends of the Governor; and he was, therefore, persuaded to this course, and to request a copy of the charge to lay before the General Court. The Judge, in reply, very properly expressed his belief, that he was not responsible to the Governor for his opinion; and that the Judicial department was wholly independent of the Executive. He, however, directed that the manuscript, containing the original speech should be furnished.

This conduct of the Governor was generally, considered improper, as he had no constitutional authority to interfere with the opinions of the Judicial Court, nor was he constituted by his office, a Judge of the correctness of legal decisions. Many were alarmed at this attempt to overawe the Judges of the highest judicial tribunal in the State, in the perfect independence of which the

\* They reported 252 libels; 99 in the Scourge, a small and obscure paper: 50 in the Centinel; 38 in the Gazette; 37 in the Repertory; 8 in the Chronicle; and 2 in the Patriot. The intelligent and independent Editor of the Centinel publicly called upon the Attorney General and the Solicitor General to detect a single libellous expression in his paper, *unless the truth were a libel.*

liberties and rights of the people were involved. What added to the apprehension was, that the call upon the Judge for his opinion on libels issued at the time the Governor denounced a moiety of his fellow citizens, as being more attached to a foreign government than to their own.

A few days before the General Court was adjourned in February 1812, the Governor sent a message on the subject of libels; and while it was under consideration, a federal member of the Senate offered this resolution—

“ That the Governor, in denouncing by message various publications in the Boston Newspapers, as libels, especially after a Grand Jury, upon an examination of some of those publications, had refused to find bills of indictment, manifests an alarming disposition to usurp the power belonging to the judicial department, tending to criminate and injure the reputation of individuals, without affording them an opportunity of defence; and that the employing of the law officers of the Commonwealth in examining files of newspapers, for the purpose of collecting and divesting such publications, with a view of presenting them to the Legislature, instead of a Grand Jury, *is a departure from his constitutional province, and an infringement upon private rights.*”

In support of the resolution, it was said “ that the message was most extraordinary and alarming; striking at the fundamental principles of the constitution and of civil liberty; tending, if suffered to pass into a precedent, to break down the barriers enacted by the constitution for the safety of the whole people, and to destroy all personal liberty and security—That if the Governor could

thus put at defiance the privileges of trial by Jury, and with his law officers, dependent on himself, set in judgment on the printers, condemn them unheard, and proclaim their condemnation to the world, after the Grand Jury had refused to find bills against them ; no class of citizens were safe ; all must be liable to the same arbitrary exercise of power.”

## CHAPTER VII.

Caleb Strong elected Governor in 1812.....His Council.....Extracts from his Speech.....Restoration of civil officers who had been removed.....War declared by the United States against Great Britain.....Unpopular in Massachusetts.....Memorial and address of the House of Representatives.....Requisition for the militia.....The Governor declines calling them out....Opinion of the Judges of the Supreme Judicial Court.....Different opinions on the Governor's conduct.....Rights of the militia.....Constitutional power of the President over the militia.....Opinions of Chief Magistrates of other States.

The feelings and disputes of the two great political parties in the State were, perhaps, at this period, more excited and bitter than at any time from the commencement of these unhappy divisions.—No doubt, individuals of both parties were blamable in this respect. Crimination produced recrimination, and each represented the other as bad members of the republic, and as enemies, either designedly or ignorantly, to the welfare of the Commonwealth. It was the duty of those in places of power and influence, to allay the passions of the disputants; but, in some cases, they seemed desirous to excite and increase them.

In this agitated state of the public mind, the more discreet and moderate citizens were inquiring who ought to be selected for Chief Magistrate of the Commonwealth. The voice of the majority, so far as it could be heard, was in favour of Caleb

Strong, who had been formerly Governor, for several years; and whose administration had been generally considered prudent, wise and salutary. He was known, at this time, to be in favour of a pacific policy, as he was under the Presidency of Washington, in 1794 and 1795. He had great political experience; and in his character, united firmness with moderation.

Great exertions, therefore, were made by the federal party to bring in Mr. Strong as Governor, in 1812. Nor did the citizens of the democratic party relax at all in their efforts, to effect the re-election of Governor Gerry.\* The result was in favour of Mr. Strong; and the popular branch of the General Court was also composed of a federal majority. The Senate, however, still had a majority of democratic members.

This political phenomenon was accounted for, by referring to the manner in which the State was districted, for the election of Senators, during the preceding year, under the administration of Mr. Gerry. A new and arbitrary division of the State into districts was made, for the purpose of securing the election of democratic Senators; when, according to the former and natural division, those of a different political character would, probably, and almost certainly, have been chosen. Thus it happened, that while the House of Representatives contained a large majority of the federal or *peace* party, the greater number in the Senate were of a different political character. Before the Senate proceeded to any public business, Mr. Otis, a member from Suffolk, protested against the unconstitu-

\* Governor Gerry was, afterwards, in 1813, chosen Vice President of the United States.

tionality of the late districting law, for the choice of Senators. But no discussion was had of the subject ; for the majority differed from Mr. Otis, and no doubt would have voted down any formal motion he or his friends had made. But any one, who had not approved of the law, for the sake of political ascendency, or whose party was not benefitted by it, must have perceived its great impropriety and injustice.

Governor Strong was aided and supported in his administration, at this time, by a council composed of citizens, eminent for wisdom and probity, and enjoying, in a high degree, the public confidence.\* But the Governor and Legislature could do but little to preserve peace, if the national rulers were resolved upon war ; except, by remonstrances or reluctant service, they should show the disapprobation of the State as to the policy of the general government. They might withhold all voluntary and gratuitous aid, if they considered the war unnecessary or inefficient. In any other way, they could not oppose the measures and purposes of the national rulers, without a violation of the principles of the federal compact. And yet the unreflecting part of the community, which is not always a very small part, seemed to suppose that a federal administration in the State would produce immediate prosperity. It might, however, prevent the accumulation of public evils, if it could not effect positive public good.

\* William Phillips of Boston, was the Lieutenant Governor and senior member of the council. General David Cobb, who had been Lieutenant Governor two years before, and a field officer in the war of the revolution ; General John Brooks, who was also a Colonel in that war ; and William Prescott of Boston ; were also members of that Body.

The Speech of Governor Strong to the Legislature, delivered soon after his induction into office, the last of May, 1812, indicated the principles and spirit, by which he would be governed in his public conduct. In his administration of the government of the State, several years before, he had given proofs of prudence and moderation, as well as of decision and firmness, in the exercise of his own legitimate authority. As Chief Magistrate of the Commonwealth, he never encroached upon the rights of any other department of the government, and though sufficiently firm, in adhering to his own opinions, he was ready to exercise candour and good fellowship with those who differed from him. If any part of his speech, on this occasion, was intended as a rebuke on the uncandid criminations of his predecessor in January preceding, or on the political intolerance, which had been exercised during the former year, it was in such just and moderate terms, that no one could express his disapprobation of it, without proving himself an advocate for party violence and strife.\*

“Our constitution,” said the Governor, “forbids any exclusive pretension to the honours of the State. Every class of men are entitled to partake

\* In evidence of a belief, that Mr. Strong would be moderate and dignified in his political course, the following extract of a letter from Mr. L\*\*\*\* then a Senator in Congress, from Massachusetts, may be given—“I expect to see a communication to the Legislature, from a highly respectable, correct and dignified Chief Magistrate, replete with sentiments of moderation and firmness, of rational liberty, of patriotism and self-respect; which, heretofore, under the same administration, have been the characteristics of the venerable State of Massachusetts, the Almamater of the liberties and independence of the American republic.”

of the same advantages, and have an equal and common right. If this is infringed, we may be sure, that sentiments of discontent and animosity will prevail. We ought indeed, to select persons of ability and integrity for public employments. But if we make it a rule to advance only our political friends, we shall become the heads of a party, and be incapable of preserving, with equity and moderation, the rights of the whole people.

“ In monarchies, the prince is the source of all power, and the fountain of honour and office. He, therefore, thinks himself authorised, in appointing his subordinate officers, to reward the attachment and to purchase future support of his adherents. But, in Republics, the people are possessed of the sovereign power: and Legislators and Magistrates, elected by them, are bound to employ their authority for the common benefit. They have no right to consider the power, deputed to them, as their own property; or to make vacancies or appointments, for selfish or party purposes. Should a contrary rule be established, it appears to me, that political feuds would be endless and implacable. The persons in office, and their friends and retainers, would employ every method to prevent any change in an administration; while their rivals would be equally assiduous and eager to effect a change. From the frequency of our elections, there would scarcely be any interruptions, in these struggles; and the longer they should continue, the greater would be their violence.”

The Governor submitted to his council the propriety and expediency of restoring those persons to office, in the State, who, during the preceding year had been arbitrarily removed, solely on ac-

count of their political opinions. The council advised that it was proper, and that justice required, such persons should be restored to the respective offices, of which they had thus been deprived. Accordingly, the Sheriffs, Clerks of Courts, Registers of Probate, and other public officers, holding commissions under the Supreme Executive of the State, were re-appointed to the offices, which they held, at the beginning of the former political year.

The calamity, which many had long feared and predicted, from the strange policy of the federal government, was visited upon the country in June 1812. War was solemnly declared against Great Britain, by Congress, on the 17th of that month: But the majorities were small, in favour of the measure, in both branches of the National Legislature.\* The intelligence reached Boston, on the 23d. while the General Court was in session. The Governor immediately communicated it officially, to the Representatives of the people. The House of Representatives prepared an address to their fellow citizens, regretting the event and expressing their opinion of its impolicy and inexpediency. They were of opinion, that negotiation would have been the most proper and effectual way to obtain redress for any wrongs the United States had suffered; and that there was a disposition, in the British Government, to adjust existing difficulties, on equitable and honourable terms. The Senate, at the same time, adopted and published an address to the people of the State, approving of the war, and

\* It was also said, by those who had an opportunity of forming a correct opinion on the subject, that President Madison was not in favour of war, but was urged to it by some of his political friends.

declaring, it in their opinion, just and necessary. The House, had, at an early day of the Session, and before war was declared, forwarded a memorial to Congress, in favour of peace and deprecating the evils of war with England. The memorial was approved by a vote of 406 to 240. The address to the people, published after the declaration of war, was adopted by a similar majority.

This vote in the House of Representatives was, probably, a just indication of the opinion of the whole body of the people in Massachusetts, relating to the policy of the war of 1812. Three fifths of the citizens, perhaps, a greater proportion were opposed to a war with Great Britain, both before and after the formal declaration of it by Congress. The people generally, believed all wars improper, which were not necessary for maintaining the liberty and independence of the country.

The war was also unpopular in other parts of the United States. There was a belief, with many patriotic and intelligent men, in various parts of the country, how well founded, it would be difficult to decide, that the measure was owing, in a degree, to a disposition in the national rulers to keep in favour with the French Emperor, who had undertaken to dictate the policy of the United States; and that, if war could not be avoided, both with France and England, there were stronger reasons for engaging in it against the former, than against the latter, as the American Merchants had suffered most by French depredations, without receiving any reparation, and the British had always appeared willing to settle all national disputes by negotiation. It was also considered, that a war must be a great burden upon the people, for

many years, whilst there was yet a heavy debt of the nation to discharge. This consideration would not have much weight, indeed, with any portion of the people, in a question of independence, or of right: But where the absolute necessity of war did not appear, and there was reason to believe, that negotiation might have given to the United States all which a war could procure, it must have had an influence with the more prudent and patriotic citizens.

At this Session of the Legislature, the characters of most of the Banks in the State were renewed, and extended to October 1831. This term of time was fixed, because some of the Banks, already incorporated, would continue to that period, and it was thought proper to place them all on an equality. Several of these banking companies would expire during the year 1812. By the new acts of incorporation, most of the Banks were altered, both as to privileges and liberties, with a view to have them founded on and governed by the same principles. They were made liable to pay an annual tax of half per cent. for ten years; amounting to \$16,000, which was to be appropriated to the funds of the several Colleges in the State. The distribution was as follows—To Harvard, 10,000; to Williams, and to Bowdoin, \$3000, each.

Early in the year 1812, Congress authorised the President of the United States to order a detachment of one hundred thousand of the militia; and in April, the Governor of Massachusetts was requested to detach ten thousand, the portion allotted to the State. Orders were accordingly

issued,\* but no returns were made for four or five months, nor until further directions were given for the purpose. This was chiefly owing to new arrangements, and the forming of new divisions of the militia during the preceding year. Generally, the militia of Massachusetts had been well regulated and organized, for many former years. Some days previously to the declaration of war, Governor Strong received notice from the war department, by a letter dated 12th of June, that the militia, before requested to be detached, would be called for, to be placed at the disposal and under the command of a military officer in the service of the United States. This was considered an extraordinary demand. For the law of Congress, authorising the President to order out the militia, was founded in the clause of the constitution, which gives the National Legislature power to provide for calling them out to repel invasion, (otherwise, indeed, the law itself would have been unconstitutional;) and it was plausibly, if not justly argued, that the militia could not be rightfully called upon, except the country was really invaded, or there was imminent and immediate danger of an invasion.

On the 22d of June, and before the Governor had received direct and official intelligence of the declaration of war, by Congress, against Great Britain, Major General Dearborn, who had been recently appointed to command the few regular troops of the United States, then stationed within the limits of Massachusetts, made a requisition, by authority of the President, for forty one companies

\* The militia thus to be detached were to make three divisions.

of the detached militia ; proposing to march eight companies to Rhode Island, for the defence of that State, and to station the others, at certain places within the State of Massachusetts. But in this arrangement, many ports and towns equally exposed as any others, if the State were really then in danger of invasion, were left unprovided. To this requisition, Governor Strong made no reply. He was in doubt, whether the exigency had occurred, mentioned in the federal constitution, to justify the President to call the militia into actual service of the United States. The day following the request of General Dearborn, he had, indeed, received information, through one of the Senators in Congress from Massachusetts, that war had been declared : But there was no invasion of the State ; nor was there any danger of an invasion for three or four months, whatever might thereafter be the movements of the enemy.

This was a subject of such a serious nature, as to principle and right, as well as to the consequences of a decision, that a character like Governor Strong, who was superior to all party considerations, and was sincerely desirous of acting correctly, in his responsible station, was not to be expected to determine upon his course, except after the most deliberate and mature consideration. And it was so, in fact ; for the Governor discovered extreme anxiety to weigh, impartially, all the circumstances of the crisis, and to ascertain what was his duty, as the Chief Magistrate of the State, sovereign and independent, in many respects, and yet forming a part of the great national, federative republic. His hesitation was not the effect of timidity, or of an intention to oppose the measures and

laws of the federal government; but it was the natural effect of the most ardent and elevated patriotism. Judging from his public speeches, and from all his declarations on the subject, it is evident, that the Governor was actuated by a sincere desire to fulfil the duties of his high station, both to the Commonwealth and to the Union. The peculiar circumstances of the occasion rendered his situation a novel as well as a delicate one. He was bound to preserve the rights of the militia of Massachusetts, as well as to comply with the just requisitions of the federal or national rulers; and whether their requisitions were constitutional and just, he was inclined to believe, it was his prerogative to judge.

On the 26th of June, General Dearborn renewed his call for the militia of Massachusetts, to the number and for the purpose before required.

The Governor still declined calling out the militia; but issued a general order, on the 3d of July, as commander in chief of the militia of the State, (a copy of which, he directed to be sent to General Dearborn,) requiring them to be in preparation to march, at the shortest notice, to any place of danger, for the defence of the inhabitants, as they might be directed by their immediate officers, whether commanders of divisions, brigades, regiments or battalions.\* The militia officers of these grades were authorised and expressly enjoined, by the Governor, in this order, to see that the men were equipped, and to march them wherever and whenever danger should exist, within the State. He also gave orders for completing the detachment required in April, and for having the returns

\* See Appendix.

made to the Adjutant General without further delay. To command the militia, thus detached, if called into actual service, he designated three Major Generals, who had been officers in the war of the revolution.

By direction of the President, the Secretary of War addressed another letter to Governor Strong, dated July 15th, urging him to order out the militia of Massachusetts, as requested by General Dearborn, and stating "that the danger of invasion had increased, since the date of his former note," which was several days before the declaration of war, when there was, in fact, no danger of invasion whatever. For there was no pretence, that the British were meditating an attack on the United States, or were desirous of a war with this country. However unjust or arbitrary the conduct of that government had been, in particular instances, there was no doubt of its wish to keep peace with America.

As an additional reason for calling the militia, immediately, into the service of the United States, it was also stated, "that the regular troops, stationed in the forts on the sea-board, were ordered to the North-Western frontiers, and that the towns and people on the coast would require other protection." General Dearborn, who was the military chief in the district, in which Massachusetts was included, gave the same reason, in another letter, to the Governor, of July 15th, requesting him to order the militia into the service of the United States. And soon after, he left the sea-board of Massachusetts, with most of the regular troops in the forts, and marched them to the borders of Canada. Governor Strong again declined ordering the militia

into the service of the United States, in the manner requested ; and seemed to rely, for the protection of the State, in case of invasion, on a compliance with the order of the third of July, by the whole body of citizens, both officers and men. The reasons, which induced him to adopt this system, with reference to the militia, though he probably acted with the advice of his council, are given in a letter, which he sent to the war department, bearing date August 5th.

“ I received your letter, of the 15th, of July, at Northampton, and the day following set off for Boston.\* The people of Massachusetts appear to be under no apprehension of any invasion. Some towns on the sea coast have, indeed, applied for arms and ammunition, and they have been supplied, in the manner they were furnished in the war of the revolution. But they express no desire, that any of the militia should be called out for their defence. You observe that the danger of invasion has *increased*. But it can hardly be supposed, that if this State had been in great danger of invasion the troops would have been called hence, to carry on *offensive* operations in a distant province. The opinion generally prevailed, that the Governor had no authority to call the militia into actual service, unless one of the exigencies, contemplated by the constitution, exists. I therefore, thought it expedient to call the council together ; and having laid

\* When Governor Strong left Boston, in July, to visit his family at Northampton, for a short time, a committee of the Council was appointed, consisting of the Lieutenant Governor and two other members, one of whom lived in Boston, and the other in the vicinity ; to give notice to the Governor and the other members of the Executive Council, if any important event should occur, requiring a meeting of the Board.

before them your letter and those received from General Dearborn, I requested their advice on the subject of them. The Council said, that they could not see that the exigency existed; and they advised me to ask the opinion of the Justices of the Supreme Judicial Court of the State, on these two questions—whether the Commanders in Chief of the Militia of the several States, have a right to determine, whether any of the exigencies, contemplated by the Constitution of the United States, exist, so as to require them to place the militia in the service of the United States, at the request of the President? And, whether, when either of the exigencies exist, authorising the employment of the militia, in the service of the United States, the militia thus employed, can be lawfully commanded by any officer, but of the militia, except by the President of the United States??"\*

The Governor proceeded to state, in the letter to the Secretary of War, that an application had

\* The opinion of the Judges, on the first question, was, that the Commanders in Chief of the militia of the several States, had a right to judge whether the exigency existed, which would authorise the President to call the militia into the service of the United States, according to a provision of the federal constitution. But, on the other point, they were not so explicit. They declined giving any opinion, as to the comparative superiority of rank between officers of the militia and of the United States troops. They believed the President had the right to appoint officers to command any detachment of militia, in his stead; but they were also of opinion, that the militia ought to be kept distinct from regular troops, and that it was their just right to insist on being under the immediate command of officers chosen by themselves.—It may be proper here to mention, that, in 1794, when President Washington called for a part of the militia of Pennsylvania and Virginia, to suppress a daring and formidable insurrection, which had taken place in Pennsylvania, they were under the immediate command of the Governors of those States

been made to him from the inhabitants of Eastport and vicinity, on the Eastern boundary of the State, and near Passamaquoddy Bay, for arms and also for three companies of militia, for the protection of those frontier towns ; and that, believing their situation peculiarly exposed, at that time, being but a short distance from New-Brunswick, he had complied with their request. The people in that quarter were supplied with munitions of war, as desired ; and three companies of militia from the county of Hancock, where no attack was then apprehended, were ordered to Eastport for the protection of the place. The Governor also gave notice, in this letter, that these companies would be placed under the command of an officer of the United States.

He adds—“I have no intention, officially, to interfere with the measures of the general government ; but if the President was fully acquainted with the situation of this State, I think he could have no wish to call the militia into service, in the way proposed by General Dearborn. He proposes, that the militia should be stationed at only a few of the ports and places on the coast. From other places (according to his plan) a part of the militia were to be called away. This would increase their danger, and diminish their power of resistance.—The whole coast of Cape Cod is exposed, as much as any part of the State, to depredations and invasions. A part of the militia, according to his orders and proposals, must be removed from their homes ; and yet no place in that part of the State is assigned as a rendezvous for the militia. Every harbour or port within the State, has a compact settlement ; and generally, the country around the harbour is populous. The militia are well organ-

*ized, and would prefer to defend their own firesides in company with their friends, under their own officers, rather than to be marched to a distant place, while strangers might be introduced to take their places at home.”*

The sentiments and views of Governor Strong, as to the requisition for the militia, by order of the President of the United States, are also fully developed, in his speech to the Legislature, at the session held in October following, when he gave a particular statement of his correspondence with the officers of the federal government; and of his proceedings subsequent to the call for the militia. “I presumed, if this State was in danger, that the regular troops would not have been ordered to the North-west frontiers; and, if they were so ordered, that the militia were not liable to be called into service and stationed in the forts of the United States, to do garrison duty, when no danger of invasion appeared.—I have been fully disposed to comply with the requirements of the constitution of the United States, and the laws made in pursuance thereof; and sincerely regretted that a request should be made, by an officer of the national government, to which I could not constitutionally conform. But it appeared to me that the requisition aforesaid was of that character; and I was under the same obligation to maintain the rights of the State, as to support the constitution of the United States.”\*

\* When the act of Congress was passed, providing for calling the militia into the service of the United States, by the President, a special reference was made to the exigencies mentioned in the constitution; and he was authorised by the law to exercise this power only when such exigency occurred. Was it

The Governor was condemned and censured at the time, by the friends of the existing administration, and, at a subsequent period, by some of his own political party, for declining to order the militia into the service of the United States, as he was requested. They believed the President should have the entire disposal and controul of the militia, in time of war. But the position assumed by Governor Strong has been often avowed since, that the State authority has a right to judge of the meaning of the constitution, as otherwise, the people may be subjected to unconstitutional laws, and the separate States be deprived of all sovereign and independent power. This doctrine has been, recently, expressly asserted and advocated by the ancient and respectable State of Virginia, and it was advanced, in 1812, by Governor Griswold of Connecticut.\*

not a great assumption of power, then, to call for the militia before war was declared ; or immediately after, when there was no invasion, and none soon expected ? Was it "moral treason," in the State authority to question the constitutional right of the President, to require the service of the militia in such a situation ?

\* Whether Governor Strong's objections were grounded on a just construction of the constitution, or were warranted by its spirit, his sincerity and patriotism were never doubted. He issued a proclamation for a public Fast, at this time ; which, though criticised by a few, was highly creditable to him, as a patriot and christian. (See Appendix.)

It may not be out of place here to refer to the opinion of two distinguished Statesmen of Massachusetts, given some time after the war of 1812, and when party feelings, probably, had little influence on the judgment. In 1817, when pleading for the allowance of the claim of the State on the general government, for expenses incurred during the war, Mr. Lloyd said, "The admission of the doctrine, to the full extent, that the Ex-

In the month of August, Captain Isaac Hull, who commanded the United States Frigate Constitution, attacked and captured an English Frigate ; and soon after came into the port of Boston, where he was received by all classes of citizens, with the most enthusiastic greetings. They invited him to a public dinner on this occasion, which was attended by all the respectable merchants of the town, and by public officers, both of the State and Nation. This was a very brilliant victory on

ecutive of the Union is to be the only judge of the exigencies, in which the militia is to be called into the service of the United States, at the time and in the manner which he may think expedient—that the militia can, by the junction of a large number to a few regular troops, be in fact officered by the United States—and that the Executive of the several States, contrary to their own belief in the existence of such emergency, should be obliged to bow before this tribunal, erected in the breast of a single individual, and to yield implicit obedience to such an opinion, must place them at the mercy or disposition of any future tenant of power ; strip the individual States of their physical as well as their fiscal force ; and scarcely leave a remnant of that self-dependence, which some of them, at least, suppose they had obtained."

In adverting, incidentally, to this subject, Mr. Otis, in a public letter, says, "If the President has the right, not only of deciding upon the existence of the constitutional contingency, which is to justify him in calling out the militia, but also of appointing his *Prefects* to command them, he possesses the power, at any moment, of converting the whole militia of the nation, into *Praetorian cohorts*. This is a tremendous power, and an awfully pregnant question, which it is not our purpose to discuss. It is a question about the power of the sword, which settles all other questions. If it is *clear* the President has it, be it so. But is it so *clear*, that all doubt must be precluded ? Is it so *clear*, that hesitation becomes a crime ? Was the retention of the command by the Executive of the State, under the circumstances of the case, equivalent to an obstruction of the laws, a paralyzing of the means and agents of the government ? It cannot be pretended. The orders of the government were carried into effect, though not by its own appointed organ."

the part of the United States Navy. The Frigate was built in Boston ; and both the political parties, unhappily divided on many other subjects of a public nature, rejoiced in the reputation and success of the gallant naval commander.

The Governor of Connecticut adopted a similar course to that pursued by Governor Strong. In a letter to the War Department, stating the considerations which induced him to decline calling out the militia, at the time proposed, he said, "I am disposed to execute every constitutional requisition from the general government ; but I am not willing to execute an order which I consider repugnant to the constitution." This shews, that he believed he had the right to judge whether the exigency mentioned in the constitution, existed, or not.

## CHAPTER VIII.

A reference to the arguments for and against the course pursued by the Governor respecting the militia.....Electors of President and Vice President of the United States.....Governor's Speech in October 1812.....His reasons for not calling out the militia.....Representatives approve of his conduct in this respect.....Extract from their reply to the Speech of the Governor.....Loan proposed.....Charge of plotting to destroy the Union.....Opinions expressed on the subject.....Declarations of Virginia and Kentucky.

The subject referred to in the former chapter, as to the constitutional power of the general government, or of its Chief Executive officer, over the militia, is certainly, a very important one; and should never be attempted to be settled in a time of political excitement, when reason and argument are in danger of being unperceived through the mists of prejudice and passion. When the country is invaded, or there is danger of an immediate invasion, no one would deny the authority of the President of the United States to order out the militia for defence. But to call the militia (or, in other words, the independent citizens of a State) into service for a long period of time, and thus to subject them to the duties and hardships of regular troops when no invasion was made nor justly feared, is a very different case. The doctrine contended for by the national administration, at that time, went to this extent, that the militia were lia-

ble to perform military duty, proper only for regular troops, according to the direction of the President or that of his subordinate officers. This, it was believed, the federal constitution did not intend; and would also be depriving the militia of their distinctive character, and of the privileges and liberty, which they had always enjoyed, even by authority of law. It is important therefore that a question, in the solution of which every citizen is deeply interested, should be deliberately settled in a time of peace, and before another war shall arise, to afflict the country.

The Governor however gave proof, of a disposition to protect the citizens from invasion, and to order out the militia, in cases of real danger, for the defence of the country. This was manifested, in calling on the militia to march to Eastport, where the people were not only alarmed, but in danger of an attack; and in furnishing the means of defence to the citizens in other sea-port towns. It was generally believed, and probably, not without good reason, that the Governor considered the war, in some measure, unnecessary, and was therefore, reluctant in giving it any gratuitous support. But this did not prevent him from devising plans and furnishing means for protecting the people of the Commonwealth. When he declined placing the militia under the command of officers, and in the service, of the United States, at an early period of the war, he did not suppose the State would suffer by his non-compliance with the request to order them out, as proposed. There was then indeed, no danger of invasion. He doubted the right of the President to demand the service of the militia, in the existing state of things; and he would

do nothing in dereliction of the legitimate authority of the State, or in violation of the rights of his fellow citizens. He considered himself the legal guardian of the militia of the State, and the protector of their rights and privileges. He was convinced also, that the State would be more effectually defended by arming the people and calling them out only when there was actual danger of invasion, than by having them placed in the forts of the United States, or embodied for some time, after the manner of regular troops, when no just cause had occurred to require their service.

It will be readily believed, that in such a situation of public affairs—the State exposed to hostile attacks, though there was no apprehension of immediate danger—the national rulers demanding the service of the militia, when the constitution did not appear to authorise it—marching their regular troops out of the State, and leaving it defenceless, excepting so far as it would be protected by its own citizens—complaining, too, of the conduct of the Executive of the State, as if it were justly chargeable with a neglect of duty towards the United States—the people, thus deserted and exposed, calling for means of defence, and the citizens looking to him for protection of their rights and deliverance from threatening calamities—In such a situation, the Governor could but feel his responsibility, and be deeply sensible of the extensive public duties which devolved upon him. To acquit himself, in this critical posture, to the entire satisfaction of all his fellow-citizens, he could hardly expect. But, although he was not indifferent to the approbation of his fellow-men, he was evidently most solicitous to fulfil, with fidelity and if possi-

ble, with success, his high public duties to his constituents and to the Commonwealth. He never wavered in his course, through timidity or a wish for popular favour. His moral courage was equal to any crisis, or any censures. Yet he was desirous of learning the opinions of intelligent men, and of conforming to public sentiment and feeling, as far as his own convictions of propriety and right would permit. His letters to the officers of the United States discover a conciliatory spirit; and his communications to the Legislature were calculated to allay party feelings, and to persuade them to prudent and temperate measures.

Those who contended for such a power in the President over the militia supposed it might be found by implication at least in the constitution: and said, that if the President had a right to command and controul the militia, in time of actual invasion, he ought to be able to call them into service, if an invasion were possible, or might take place at a very distant period; because the country ought to be seasonably prepared for an attack; and if known to be prepared, the enemy would not be so ready to invade. On the other hand, it was said, that the constitution gave this power only in time of invasion; and that such construction only, comported with the character and rights of the militia. For they were liable to be called into military service merely for defence, and only in cases of sudden and unexpected attack, when regular troops could not be collected. A different doctrine and a different construction of the constitution, it was argued, would put the militia entirely in the power of the President, to march to any places, and to require service of them for any period he might please.

The act of Congress, which provided for calling the militia into the service of the United States, it was said, expressly referred to the exigency, on the existence of which the constitution authorised such a call; and if the militia might be required, under any other circumstances, it would be transcending the power given both by that instrument and the law passed on the subject. If the militia were called out, when an attack was made, or the danger of invasion was imminent, and were kept in preparation to march for the defence of any place, which should be threatened, it was said, that all the military duty and service, which could be justly required of them, would be performed. The majority of citizens in Massachusetts, among whom were some whose political opinions were not favourable to Governor Strong, approved of the measures of the Chief Magistrate at this critical period.

An extra session of the Legislature was holden, in October, (1812) to adopt a mode for the choice of Electors of President and Vice President of the United States, which was omitted at the June session. The political character of the majority of the Senate was different from that of the House of Representatives; and the two branches did not agree upon any method for the appointment or choice of Electors. Nor did they now decide in what manner the Electors should be chosen, till after a good deal of discussion, and several modes proposed had been rejected. A resolve was, at last, adopted, for choosing them by the people and not by the Legislature; and the Commonwealth was divided into six districts for the purpose. The counties of Suffolk, Essex and Middlesex, composed

one district and chose five Electors ; Worcester, Hampshire, Berkshire, Franklin and Hampden formed a district, and chose six ; Plymouth, Norfolk, Bristol, Barnstable, Nantucket and Dukes were made a district and chose four ; York Cumberland and Oxford chose three ; Lincoln, Kennebec and Somerset chose three ; and Hancock and Washington chose one. When the Electors met in the month of December,\* they gave their votes for Mr. Clinton of New-York, for President : But Mr. Madison was re-elected, by a great majority of votes given in by the whole United States.

At this session of the Legislature, the Governor gave a particular statement of the measures he had adopted, subsequently to their adjournment in June, in relation to the requisition for the militia, by the officer of the United States. He mentioned the reasons, which induced him to decline calling them into service, as had been proposed by an agent of the federal government ; and expressed his doubts, both of the constitutional power of the President to call for the militia, under the circumstances of the case, and of his own authority to order them into the national service, in the manner required. Some paragraphs from the Governor's Speech, on this occasion, have been already quoted.† Some others are here given, to disclose more fully his sense of the impropriety of his co-operating in the

\* The Electors who were chosen belonged to the federal or peace party ; and received 25,000 votes more than were given to the candidates proposed by those who approved of the war and were the political friends of the national administration, at that time.

† See page 139.

plans of the national administration and its agents, as to the militia.

“ General Dearborn plainly supposes, that in consequence of the act declaring war, he was authorised, by virtue of the power given by the President, to require any part, or even the whole of the militia to be called and marched to such places in this and the other States, as he may think proper. If this construction of the constitution is correct, then the President and Congress will be able, at any time, by declaring war, to call the whole of the militia of the United States into actual service, and to march them to such places as they may see fit: and to retain them in service as long as the war shall continue.

“ Heretofore, it has been understood, that the power of the President and Congress to call the militia into service was to be exercised only in cases of sudden emergency; and not for the purpose of forming them into a standing army, or of carrying on offensive war. But according to the above construction, the right to employ the militia is made to depend, not upon contingencies, which the national government might be unable to foresee, or to provide against; but upon its own act; upon the existence of a state of war, which the government has a right to declare, and to continue as long as it may think proper.

“ Although many of the most important attributes of sovereignty are given, by the federal constitution, to the government of the United States, yet there are some which still belong to the State Governments. Of these, one of the most essential is the entire controul of the militia, except in the exigencies above mentioned. *This has not been*

*delegated to the United States. It is therefore, reserved to the States respectively.* And whenever it shall be taken from them, and a consolidation of the military force of the States shall be effected, the security of the State Governments will be lost ; and they will wholly depend, for their existence, upon the moderation and forbearance of the national government.

“ War is so dreadful in its effects and so destructive to human happiness, that the law of nature allows of it only in the utmost extremity ; and requires, that when it is resorted to, the persons engaged in it shall endeavour to mitigate its horrors as far as their safety will permit, by the exercise of justice and humanity. These principles of the law of nature are confirmed by the precepts of the christian religion.

“ Whatever sentiments may prevail among the people of this State, concerning the justice or expediency of the present war, I hope and trust, that they will perform the duties enjoined on them by the constitution and the laws ; and that they will do nothing to obstruct the government in the constitutional measures it may think proper to adopt.”

The majority of the Representatives fully approved of the conduct of the Governor, with regard to the requisition for the militia, as appears by the following paragraph from their answer, at that time.

“ We have witnessed with great satisfaction, the course which your Excellency adopted and pursued, in regard to the requisition of General Dearborn, for a portion of the militia of this Commonwealth ; and it is due to your Excellency to declare, that the conduct of the Supreme Executive, upon this interesting subject, has met the unquali-

fied approbation, not only of this House, but of the great body of the people. While, on the one hand, it has discovered a sincere desire to comply with the requisitions of the constitution of the United States, and the laws made in pursuance thereof, it has equally evinced a determination to protect the citizens against all unconstitutional encroachments, and to maintain the rights of the State, as secured and recognized by that constitution. By the constitution, Congress are wisely entrusted not only with the right of declaring war, but with the power of raising such forces, both by sea and land, as may be necessary for its vigorous prosecution. By a discreet and judicious exercise of these important powers, the national government may, at all times, place themselves in such a state of preparation, as to render the aid of the militia unnecessary in the commencement of an offensive war, deliberately declared by themselves; and the power to call the militia into service, was never to be exercised, except in cases of sudden emergency, or for the purposes of defence; certainly, not with a view of forming them into a standing army, or to prosecute a war of conquest. Any other construction of the constitution, than that which your Excellency has adopted, would expose the citizens to be torn from their homes, whenever the general government might think proper to declare war; and to be retained in the United States service, as long as the war might continue; while, by thus depriving the Commonwealth of all its means of protection and defence, every essential attribute of state sovereignty would be completely destroyed. The people of Massachusetts have never surrendered to the general government, the power to call

forth the militia, except to execute the laws of the Union, suppress insurrections and repel invasions ; and whenever this call is made, it is not only the right of the Commander in Chief, but his solemn duty to determine, whether either of these cases exists. The citizens of the Commonwealth will long cherish grateful recollections of the independent and faithful manner, in which your Excellency has discharged this important trust.”\*

On the part of Great Britain, the war was a defensive one, and probably, unexpected. Canada was early invaded by the United States’ troops ; and the Province was fully occupied in measures of defence and safety. No invasion was made, or threatened, during 1812, by the enemy ; and the militia, therefore, were not called out, except a few companies at Eastport. Great exertions were made, however, by their respective officers, to arm the militia, and have them in a state of preparation and readiness to *repel any invasion*, according to the general order of the Governor, of the third of July, before mentioned. Still, the people on the sea-coast were not wholly free from alarm, As war had been declared against a nation of very extensive naval force, they felt themselves in an exposed and dangerous situation ; and in most cases suspended their usual business of navigation, of fishing and coasting.

It will readily be supposed, that such interruption and suspension of their common pursuits, on which the comfort of their families depended, produced much distress and uneasiness among the people. All those concerned directly or indirect-

\* It is important to state, that the vote of the House of Representatives, on adopting the answer to the Governor’s speech,

ly in commercial enterprises, felt the evils of war pressing very heavily upon them. They had already been long suffering under the system of commercial restrictions and non-intercourse; and especially under the law imposing an Embargo, which was in force for an unusual period of time. A vast amount of capital was unemployed; or, if vested in navigation, was almost certain of being sacrificed and lost. The price of all imported articles was high beyond any former year, subsequent to the revolutionary war. This led to the practice of smuggling, in some instances. The produce of the country also, bore a very great price; while that portion of the community who depended upon the farmers, which is composed of those who were engaged in navigation, were less able to purchase. Many citizens in Massachusetts, who had before given their support to the national administration, became dissatisfied; and complained of the policy of the general government, as loudly as any others. It is not to be supposed, that those who thus complained, were less patriotic, or more selfish, than the people in other parts of the nation. Could they have perceived any great national benefits to result from the war, they would have endured the privations and evils, to which they were subjected, with perfect acquiescence, as they did in the war of 1776. But doubting the necessity of the war, and seeing no reason to believe that England would yield to the demands and claims

in which his conduct respecting the militia is so expressly and fully approved, was by a greater majority, than for any other political measure, adopted at this session. There were 325 in favour of the answer, and only 150 against it. This shows the feelings and opinions of the people, on this interesting subject.

made upon her, by the United States, they openly condemned the policy of the national rulers, who had brought the country into such a situation of embarrassment and suffering.

A loan was, at this period, desired by the general government, to a large amount, to enable them to prosecute the war. Applications were made in all parts of the nation. The United States had then a great debt to provide for; and the revenue, in consequence of the embargo, and other restrictions on commerce, was comparatively small.— Few subscriptions were made to the loan in Massachusetts. The capitalists were not so ready, as on some former occasions, to lend their money to the government. Many declined, because they were opposed, in principle, to the war. And others feared the debt of the nation would be so increased, as that, with a restricted navigation, and a scanty revenue, the government would not be able to refund the money for many years.

This refusal of the opulent citizens of the State, to lend their money for the prosecution of the war, was made a matter of severe complaint, by the ardent friends of the national administration; and, added to the fact of the Governor's declining to call the militia into service, as requested, gave occasion for the renewal of the charge, made in 1809, of an intention to divide the Union, and erect the New England States into a separate government. Although no proof of such a plan was then, or at any time offered, to substantiate the charge, or to render it probable even, in the opinion of the impartial and disinterested, which, no doubt, would have been produced, if any were known, still, the dissatisfaction, manifested by the majority of the Eastern

States to the war with England, gave some plausibility to the accusation, with the unreflecting and those of strong party feelings. Some individuals probably, spoke unadvisedly and rashly, on the subject. But the people generally, and those in power in Massachusetts held no other or stronger opinion than this, "that they feared the anti-commercial system, and other impolitic and injurious measures of the federal government might lead to a severance of the States."

At no public meeting of the people, either in a body, or by delegates, was language stronger than the following used, respecting a separation of the union ; and this was at a large county convention, in the country, at a great distance from the metropolis, and assembled without any extraneous influence.—"Resolved, that we consider the union of these States as an inestimable blessing ; and that we deeply deplore a system of measures, which may disaffect any portion of the community to this national compact." Mr. Ames, whose opinion had great influence in Massachusetts, and in other parts of the nation, indeed, was known to be a decided friend to the Union, while he lived. "No privations or calamities," in his opinion, "could justify a separation of the United States"—and yet he sometimes expressed fears, as to the excess of democracy, growing out of the French revolution ; and he lamented the restrictions on commerce, as calculated to irritate the people in the Atlantic States.

An eminent federalist, writing on this subject, in Massachusetts, after referring to the sufferings of the people, under the embargo, the anti-commercial system and the war, says, "Let us cleave

to the Union, to the last extremity." He also asserts, "that no treatise, essay, official speech, or other public document, with the sanction of any respectable name among the federalists, has ever appeared, favouring, *in the most remote degree*, the suggestion of dividing the Union. No one can be named, who espouses this theory even in *conversation*. No report of any committee, no legislative act or resolve, can be produced, giving the least countenance to such a project, if any was formed. On the contrary, it is notorious, that the most decided and distinguished of the federal party, have been the most zealous advocates for the continuance of the Union. It is, indeed, the universal sentiment among the federalists, that the force of the motives, which led to the union, though weakened, is not so impaired as to justify the attempt, or even the wish for a separation.

"With great regret, some, indeed, are compelled to believe that public affairs are awfully mismanaged; and may hasten such an event. In order to prevent it, therefore, they do sometime express their fears of such a calamity. But they are desirous the people of the commercial States should exercise patience and forbearance, submit to all reasonable privations, and attempt all practicable experiments to obtain relief from the oppressions of the present system.

"We ask that commerce, for the prosperity and protection of which, the federal government was chiefly instituted, may not be *systematically* crippled in peace, nor *systematically* burdened in war. Such a system is unequal, and cannot be endured. The union is dear to the people of Massachusetts. Commerce is also dear to us. What

symptoms of disaffection, we may ask, in this declaration ? When the people fully perceive the destructive tendency of the anti-commercial system, they may prefer to follow the example of their virtuous ancestors, and quit a country the government of which will not protect their rights, rather than to suffer oppression and ruin.” This was, probably, the most explicit language on the subject of the separation of the Union at that period. And it was far exceeded, in explicitness, and in menace, by the people of Kentucky and Virginia in 1800, on the passage of the alien and sedition laws; and by the citizens of the latter State, in 1795, when the treaty with Great Britain was ratified by Washington with the consent of the Senate of the United States.\*

\* It may not be improper, here to refer to a meeting of the citizens of New-York, soon after the declaration of war, which was in June 1812—This was a very numerous assembly, and the most respectable characters were present. The chairman of the meeting was a revolutionary officer, of high rank and great worth ; and the resolutions adopted by the meeting had been approved by Mr. Jay, Mr. King, Judge Benson, G. Morris, R. Varick and M. Clarkson. Among these resolutions were the following—“ That war, one of the greatest calamities which afflict mankind, when waged without just cause, is an insult to the Divine Being—That the war, recently declared, by a slender majority of Congress, is unwise—That it would have been difficult to select a period more unfavourable for a measure so portentous—The United States being unprepared ; the treasury empty ; the property of our citizens in the hands of those now made our enemies ; property afloat on every sea ; the revenue impaired by imprudent commercial restrictions, and now by the war destroyed ;—and that we are irresistably drawn to the conclusion, that the American people will be subjected to the will and power of the French Emperor. We are therefore, under the *dire necessity of declaring, that we have no confidence in the men who have brought us to this perilous situation.*”

## CHAPTER IX.

Hope of peace disappointed.....Session of the General Court, January and February 1813.....Measures of defence adopted.....Money appropriated for means of defence.....Commissioners appointed for defence of Sea-Coast.....Application to Congress for aid, and for fire arms.....Congress requested to increase the Navy.....Seats of some Senators vacated.....Vote of thanks to Naval Officers.....Governor re-elected in 1813.....Extracts from his Speech.....Remonstrances of Representatives and Senate against the war.....Second request to Congress for fire arms.....Mr. Gore, Senator.....Capture of the Chesapeake.

As the orders of the British Ministry, unfavourably affecting the Commerce of the United States, which were considered by the national administration as very arbitrary and unjust, and were, indeed, alleged as the principal cause of the war, were repealed, it was hoped that peace would be restored between the two countries. But this hope was not realized; and it was evident, that the general government was determined to prosecute the war. At the session of the General Court of Massachusetts, in January 1813, the Governor, therefore, recommended the adoption of measures for the defence of the State; and advised the Legislature to make appropriations for that purpose. The State was still in a defenceless condition, the regular national troops having been ordered away; and it was reasonable to suppose, that on the continuance of the war, the enemy might make attacks

on some of the towns on the sea-coast, in the course of the ensuing year. The Legislature, accordingly, voted \$100,000 to be placed at the disposal of the Governor, to purchase fire arms cannon and other munitions of war, to enable the militia, if called out, to act with effect.

The Governor was also authorised to appoint three Commissioners, for the defence of the sea-coast, who were to have the immediate care of providing these means of protection. He selected for this important trust Generals Cobb, Heath and Brooks, who had been distinguished officers in the army of the revolution, and were men of great experience, patriotism and judgment.

During this session of the Legislature, the House of Representatives passed an order, directing the Adjutant General of Massachusetts to represent to Congress and to the President of the United States, the defenceless condition of the sea-coasts within the State, and to desire aid from the federal government, in money and in ammunitions of war. But the Senate refused to join in the resolution. Soon after this period, the Governor applied to the national administration for the portion of fire-arms, (ordered by an act of Congress, at a previous session) coming to this State, for the use of the militia: But none were furnished to Massachusetts till some time after and near the close of the war; though most other States received their portion at that period. The House of Representatives passed a resolve also, at this session, by which the Representatives and Senators in Congress from the State were instructed to use their influence in the National Legislature for an immediate augmentation of the naval force of the

United States: and in this resolution, the Senate readily joined.

A proposition was, made, at this time, that the State build a seventy-four gun ship, to be presented to the United States, for the national service during the war; but after some discussion, it was rejected. In his speech, at this Session, the Governor informed the Legislature, that it had been ascertained the militia were well organized, and capable of acting with promptness and effect, whenever it should be necessary to call them into service. His order of July 3d. 1812, had produced a good effect on the militia officers, and very satisfactory returns had been made from all parts of the State.

Several members of the Senate discovered an independent and honourable spirit, in voting with those of the federalists in that body, on a motion to declare the seats of Messrs. Tuttle and Ripley vacated, in consequence of their accepting commissions in the regular army of the United States. Subsequently to the former session, these gentlemen had been appointed Colonels in the army. It was considered improper, therefore, they should retain their seats as Senators. The resolution to consider their seats vacated by their acceptance of the appointment was passed by a vote of sixteen to nine; five of the democratic Senators voting in favour of the motion.

Captain Bainbridge, who took command of the frigate Constitution in the fall of 1812, captured the Java, a large British frigate in December; and on his return to the United States, came into the harbour of Boston. He entered the port, while the General Court was in session; and the Senate,

soon after, passed a vote of thanks to him and his brave officers and crew, for this gallant achievement. On a motion in the House for a similar purpose, it was considered proper to refer to all the naval victories, which had then been accomplished. Captains Decatur and Jones of the navy had also been successful in naval encounters; and they were included in the resolution adopted in the House of Representatives.

The preamble and resolve were as follows—  
 “Whereas every event which reflects lustre upon the American name and contributes to elevate the national character, in the view of foreign powers, ought to be distinguished and honoured by the people of the United States: and whereas the brilliant victories achieved by our gallant navy, since the commencement of the present war with Great Britain, are highly calculated to produce this effect; and while they demonstrate to the Nation the wisdom and patriotism of the policy which projected and created a navy, they strongly urge upon the national government the importance of encouraging and increasing that species of defence; it becomes the Representatives of the people of Massachusetts, (whatever may be their opinions in relation to the present war) to testify their high approbation of the gallant and able conduct of those officers and crews of the navy, to whom the fortunate opportunities have occurred of giving reputation to the American arms and of signalizing their own valour, enterprise and nautical skill.

“Therefore, resolved, as the opinion of this House, that Captains Hull, Bainbridge, Decatur and Jones, of the United States Navy, their officers and men, in the splendid victories, by them recent-

ly obtained over the British ships of war, *Guerriere*, *Java*, *Macedonian* and *Frolic*, and in their generous conduct to their captured enemies, have acquired for themselves a distinguished title to the consideration and applause of their fellow citizens, which is due to an heroic and able discharge of duty, and which is the legitimate reward of brave men, who devote their lives to the service of their country.”

It was proposed at this Session to adopt some plan or method for lessening the number of Representatives; but no act was passed by the Legislature on the subject. No law could, indeed, have been passed, to this effect, without an alteration of the Constitution. The number of Representatives, chosen in May 1812, was upwards of 700. The number chosen in 1813, was 630.

Mr. Strong was re-elected Governor for the year 1813, by a very large majority; a proof of the confidence the people had in his wisdom and patriotism, and of their approbation of his public conduct the preceding year.\* And the Senate, as well as the House of Representatives, was composed chiefly of the federal party; or as they were, at this time, generally, denominated, the friends of peace. A great change had taken place in the minds of the people, respecting the policy and measures of the general government; and many who had placed implicit faith in the political wisdom of the national rulers, withdrew their confidence and their support. In his speech to the

\* General Joseph B. Varnum was the other candidate for Chief Magistrate at this time. Samuel Dexter was also nominated, but he expressly declined receiving the suffrages of the people for the office.

Legislature, at the commencement of the Session in June, the Governor gave a concise history of the conduct of the belligerent nations in Europe towards the United States; in which he expressed the opinion, that the government of France had generally been first in the depredations on the American commerce, and had inflicted injuries of the greatest amount: and that peace might have been maintained with Great Britain, by a sincere desire, on the part of the national administration to adjust the disputes which had existed, consistently with the interests and the rights of the United States.

The Governor at the same time, recommended to the Legislature to provide further means of defence for the inhabitants of the State; particularly, for those on and near the sea-coast, who were the most exposed. "They have already suffered much," he observed, "in being deprived of the usual means of support and are in danger of still greater evils. It belongs indeed, to the national government to protect all and each of the States in the Union, and to provide for the common defence. But, if an invasion should be made or attempted, on any part of our coasts, I feel confident the militia will promptly and cheerfully exert themselves to repel it." The Senate and House of Representatives, in their respective answers to the Governor's speech acknowledged the correctness and propriety of his statement, and gave assurances of support to all necessary measures, for the safety and protection of the State, against an invading enemy. A large sum was appropriated, during the Session, to purchase fire arms, cannon and gunpowder, to be furnished the citizens who inhabited

the sea coast. They were distributed under the direction of the three agents for sea-coast defence before appointed. In reply to inquiries, as to the continuance of the general order of July 3d. 1812, the Governor directed the Adjutant General to inform the militia officers, and others who might act as committees for the towns, that he considered the order still in force, and to urge upon the commanders of regiments, battalions, brigades &c. to be in constant readiness to march, at the shortest notice; and whenever there was a landing by the enemy, or any menace or attempt to land, to repair to the place of danger, without waiting the orders of a superior officer.

The sentiments of the Governor respecting the policy of the national administration in declaring war against England for the causes alleged, were well understood. He had repeatedly expressed an opinion, that it was not necessary or expedient. But it was not in his character to inflame the passions of the people, or to increase their discontent at the measures of the general government. The following extracts from his public speech to the General Court in June 1813, will shew the temper of the Governor, both as a man and a politician.

“ We are bound to obey the laws made in conformity with our constitutions: But those constitutions ensure to us the freedom of speech; and at this momentous period, it is our right and duty to inquire into the grounds and origin of the present war; to reflect on the state of public affairs; and to express our sentiments concerning them with decency and frankness; and to endeavour, as far as our influence extends, by temperate and con-

stitutional means, to promote an honourable reconciliation. By an unnecessary war, the deepest guilt is incurred ; and therefore, every belligerent nation should inquire which of the contending parties is justly chargeable with that guilt.

“ It has often been asserted, that our national honour compelled us to engage in a war with Great Britain. The honour of a nation consists in the display of its wisdom, justice, moderation and magnanimity. It requires the government to regulate its conduct for the greatest advantage of the State ; and to pursue that series of measures, which will most effectually promote the welfare of the people. But that species of honour, which would prompt us to wage war for every supposed instance of abuse or disrespect, is not the honour of a wise and moral people.

“ So far as conquest may be considered as the object of the present war, its policy, to say nothing of the justice of it, must be extremely doubtful : A few individuals may gain, by an offensive war ; but the great body of the people have nothing to gain or to hope for. In republics, the increase of power has often occasioned severe calamities, by increasing their pride and arrogance, and inspiring rash councils and extravagant measures. And when they have been successful in foreign wars and acquired the title of conquerors, they have generally and speedily lost their form of government.”

At this session, a remonstrance against the policy of the war was prepared, and adopted by large majorities both in the House of Representatives, and in the Senate, and addressed to the Congress of the United States, then convened in an extra-

ordinary session, called by the President, on account of the embarrassments in the nation, growing out of the hostile attitude of the government. The evils of war generally, were ably stated, in this document ; and especially of that, then recently declared ; which, it was supposed might have been prevented, without compromitting the honour of the nation ; and which, in its progress threatened distress and ruin to that portion of the citizens of the Commonwealth, who were engaged in commercial pursuits.\* Most of the towns on the sea-coast had petitioned the Legislature to desire some means of relief if possible, to restore to the country the blessings of peace. These petitions were referred to a committee, and the remonstrance against the war was the result.

While the General Court was in session, in June, Christopher Gore, who was Governor of the State in 1809, was elected a Senator in the Congress of the United States. He had been appointed by the Supreme Executive of the Commonwealth in the recess of the legislature, on the resignation of James Lloyd a few months before. There was an extra session of Congress in May ; and the Governor considered it very important to have a full representation in the national Senate from Massachusetts. The election of Mr. Gore, by a large majority of both branches of the General Court, was

\* The people were justly alarmed at the immense expense of the war ; for the payment of which, the chief dependence must be on the commercial part of the nation. The expenses for the year 1813, were estimated at forty million dollars. It was also supposed the country lost 63,000,000 by the Embargo, and as much during the four years of the restrictive system : more than three fourths of all which, were sustained by the eastern States.

proof of the good judgment of Governor Strong, in selecting this distinguished citizen.

The Governor gave notice to the General Court, of the letter he had received from the Secretary of War, in which he declined furnishing to Massachusetts the portion of arms, to which the State was entitled, by virtue of a law of Congress, passed several years before, and for which the Governor had applied. A committee was raised to consider the subject ; for it was considered improper and arbitrary in any officer of the national government, or in the President himself, to refuse fulfilling an express injunction of law. A spirited report was made by the committee, and a resolution was adopted, by which the Adjutant General was directed to request of the war department, an *immediate* supply of arms, to which the State was entitled, according to the law of Congress.

On the second of June, a battle was fought just off the harbour of Boston, between the Chesapeake, a Frigate of the United States, and the British Frigate Shannon, which terminated unfortunately to the American Ship. There was the more interest taken on this occasion, perhaps, because the Chesapeake had been some time in the port of Boston, and her officers were known and esteemed by the citizens of that place. The ship had sailed but a few hours, when the attack was made. Her officers were brave, and the highest expectations had been cherished of success, if she should meet the enemy. But the battle was commenced with great disadvantage on the part of the Chesapeake. The contest was too eagerly sought by the brave and gallant commander, before he was fully prepared for action ; and the relative position of the ships,

when they met, was favourable to the British Frigate. The American Ship was taken, several officers and men were killed, and the Captain was mortally wounded.

## CHAPTER X.

British Ships on the coast.....Alarms of invasion.....Detachment of militia ordered out....Spirit and bravery of the people.....Embargo.....Governor's Speech, January 1814.....Extracts from it.....Reply of Representatives.....People complain of grievances.....Embargo obnoxious and distressing.....Memorials to General Court, from towns and from fishermen. Resolutions of Legislature thereon.....Governor of Vermont threatened... Resolve to defend him.....Strictures on the conduct of Governor Strong. Militia called out, on request of Naval Officers of the United States, April, 1814.

During the year 1813, several detachments of militia were called out, on applications from the people on the sea-board, who were apprehensive of an attack from the enemy, whose vessels were frequently seen near the coast. But these detachments were not very large; nor were they kept long in service, at any one period. In 1812, there were no alarms, excepting in one instance, which was at Eastport, in the vicinity of New Brunswick; when the militia were immediately ordered from a distance, by the Governor, for the defence of the inhabitants and their property. But in the summer of 1813, several ships of the enemy were hovering on the coast in the counties of Hancock, Lincoln and Cumberland, in Maine; but no attempts were made to land. The militia, however, in the vicinity, in companies, or battalions, promptly repair-

ed to the places where the inhabitants were alarmed: and their appearance, probably, often prevented the meditated attacks and depredations of the enemy. The militia officers, acting under the general order of the Governor, of July 3d, 1812, were always ready to *repel invasions*; and when it was attempted or threatened, they conducted with great bravery and effect. Thus the extensive sea-coast of Massachusetts was protected by the militia, in obedience to the orders of the Commander in Chief of the State, without any infringement of their rights, or imposing an unnecessary burden upon them. The people were allowed to pursue their ordinary occupations; and yet, when immediate danger threatened, they were prepared and commanded to assume the character of soldiers, for the defence of the country.\*

\* The dispute respecting the power of the President of the United States over the militia, still continued; and a great deal was written on the subject in the public papers in Massachusetts. The question has been already noticed; but it was so absorbing at the time, and its solution so essential to the liberties of the people, that it may be referred to again, although it should justify the charge of a repetition of former remarks.

It was said by those who considered the demand of the President for the militia, in June 1812, to be an assumption of power, that if, when an act of Congress gave him authority to call them into service, he could do it except in the cases specified in the constitution, then there were no limits to his controul of them; and he might march them where and when he might choose. The constitution says, the militia shall be liable to be called into service, "*to repel invasion.*" This is specific and precise. But the question naturally arose; whether this gave the President authority to call for the militia, on the declaration of war, and so long as it continued. The friends of the administration, at that time, asserted that it did; while many others believed, that no more in war than in peace could the militia be ordered into the service of the United States, but to *repel* an invasion, or to defend against a threatened attack.—

Later in the season, the vessels of the enemy entered some harbours in the State, and plundered the inhabitants of their sheep and other live stock. But they did not proceed into the country, nor remain long in the places where they landed ; for the militia were prepared to defend themselves ; and obliged the enemy to retire. At Portland and Wiscasset the militia were called out, in larger detachments, in September 1813, by orders from the Generals of divisions, who referred in their summons, to the general order of the Governor. These were retained in service several weeks ; for the ships of the enemy were then near the coast in Maine, and it was apprehended their purpose was to land and plunder the inhabitants, unless the towns and harbours were well guarded. The service of the militia was the more necessary, as the regular troops of the United States, who had been in the forts, in that part of the Commonwealth, were gone to the North-west borders for the invasion of Can-

Another important question arose, whether the President alone should decide, that there was such immediate danger of invasion in any case, as to justify the calling out of the militia : or whether the state authorities had not the best opportunity to judge of the danger, and a right also to decide, or to be consulted in the decision, whether the emergency had occurred, which required them to serve for the protection of the State.— In a word, the question was, whether, on constitutional grounds, and consistently with the rights of the citizens, they could be ordered into the public service, and subjected to military law and discipline, by authority of the federal rulers, except to repel an actual invasion. It was said that in time of war there was always danger of invasion ; and therefore, the militia might be called out and retained in service, so that they might defend the country whenever an invasion should occur. To this it was replied, that no danger could justify an act which was in violation of the rights of the people ; that regular troops should be provided whenever a *permanent* military force was to be kept

ada. It appears by the correspondence between the Major Generals and Governor Strong, that the latter approved of calling out the militia at these places.

In this state of alarm and of probable danger, the citizens of most of the towns contiguous to the Atlantic, applied to the authority of the State, for the means of defence. By the provident care of the Executive, who had been authorised by the Legislature, various munitions of war were purchased; and were furnished to the inhabitants when requested, by the agents appointed for the purpose. Weapons of war to a great amount were thus distributed among the militia, whose promptness and efficiency was displayed on all suitable occasions. At no time did they refuse or hesitate to march to places exposed, or where alarm existed; and yet they generally objected to the plan of being stationed in the forts, or of being formed with a permanent military body.

up; and that the militia being put in a state of preparation and readiness for service, could be employed to repel an invasion, and to defend any place attacked, while, at the same time, their rights and liberties would not be infringed. Patriotic and brave men would certainly defend their country; but were they to be under the controul of federal rulers and officers, and at their discretion, in time of war, more than at any other time, except for the object or service mentioned in the constitution? The Governor of Massachusetts has a constitutional right to call out the militia, as he may judge proper, for the safety and protection of the State; but no officer of the general government has authority to use and command them, except in certain cases, clearly specified.

Mr. Munroe, when acting as Secretary of War, in Feb. 1814, in a letter to a committee of Congress, says, "The military commanders were required, by the President, to watch the movements of the enemy, and to summons them to the field, *on menace of invasion*. The object of the President was to afford

It will be readily perceived, that, with the very extensive sea-coast in Massachusetts, a great expense must have been incurred, in carrying into effect the views of the Governor and Legislature, in providing for the protection and defence of the State. The extent of the sea-coast from Rhode-Island to New Brunswick, with all its inlets and bays, is about six hundred miles, and includes eighty towns and villages, some of which are large, and much exposed, on account of the facility with which they may be approached from the sea. Whenever an alarm was given, the citizens repaired, with great cheerfulness to the place of danger ; and discovered much of the spirit and bravery which animated their fathers in the time of the revolution.— Then, indeed, they contended for their natural and political rights. They engaged in the contest with remarkable zeal and enthusiasm ; and they submitted to privations and sufferings without complaint. But as they did not perceive the necessity of the war of 1812, and believed that all which was just, or essential to the honour and welfare of the nation, might be obtained by negotiation, they were wil-

the best protection, with the least possible burden to the people.” This object was attained most effectually by the plan and the orders of the Executive of Massachusetts, without requiring any service of the militia inconsistent with their constitutional rights.

Several members of Congress were sensible of the difficulty attending the question, as to the controul of the militia, and a committee was appointed in January 1815, to consider the subject. But the news of peace soon after arrived, and no report was made by the committee. About this time, the Governor of South Carolina recommended to the Legislature of that State, to propose an amendment to the Constitution, so as to have the power of Congress and of the President over the militia, more clearly defined.

ing to support it, only in so far as the constitution imperiously required ; or their determination, as brave and patriotic citizens, to defend themselves and the country from invasion, would compel them.\*

The people of Massachusetts, very generally, complained of the national rulers, for their neglect to provide the means of protection and defence of the State. They considered it the duty of the general government to protect the nation against a foreign enemy. This was one object, according to the federal constitution, for which a national government had been instituted.† Had war been declared against the United States, unexpectedly and without warning, the rulers of the nation, whose policy did not lead them, openly and professedly, to aim at foreign conquests, would have been just-

\* A doubt, both of the justice and of the expediency of the war was expressed by individuals, who, afterwards, for some reason, became its advocates, and the eulogists of those by whose influence it was declared. Governor Plumer of New Hampshire said, "he considered it unnecessary and unjust." J. Q. Adams, in a letter written at St. Petersburg, in October 1812, to the Secretary of State, says, "I observed to the Russian Minister, that I knew the war must be highly injurious both to the United States and to England ; and that I could perceive no good result likely to arise from it, to any one." The Russian Minister replied, "that he considered the war in the same light."

† The immense debt incurred by the national government in prosecuting the war, which many believed might have been honourably prevented, and expended chiefly to carry the war into the enemy's country, while the interests of commerce, and the sea-coast which was most exposed, were neglected, added much to the discontent and complaints of the people. The expenses for 1812, amounted to forty five or eight millions ; and those for 1814, were estimated at seventy millions and upwards. The citizens of the commercial States were aware, that this great debt must be paid principally by them.

ified, in the minds of the people, in not being perfectly prepared to meet the unforeseen crisis. But, in the present case, war was declared by the national rulers, who, it was afterwards evident, had long meditated, if not actually resolved upon it;\* and when it was confidently believed, by the most intelligent, that negotiation, undertaken in the honourable manner of that instituted by Washington, in 1794, would have obtained for the United States more than was secured by an appeal to physical force, when much blood and treasure were expended..

The federal government, it was therefore said, should have been prepared to repel the attacks of a nation, which they had compelled to become the enemy of the United States; and should have provided means of defence for the people, whose welfare it was expressly pledged to defend, instead of relying upon the militia, except merely to *repel* invasion, which might unexpectedly occur. But when, instead of such wise and just precaution, no troops or means of protection were furnished, by the general government, and even the few regular corps, which had been stationed in the forts, for the safety of the sea-ports and the vessels in the harbours, were withdrawn, to be employed in ambitious schemes of conquest, the people became very clamorous, and seemed disposed to attribute their calamities and sufferings to the improvidence of the national rulers.

\* They who were in the secrets of the French Cabinet, predicted in April or May, that war would soon be declared by the United States against Great Britain. And before war was declared by Congress, the Secretary of War requested Governor Strong to place the militia under the entire command of a military officer of the United States.

These complaints against the national government, for making war against Great Britain, without stronger reasons than were given, and for neglecting to provide means of protection to the people who were put in danger by it, were considered by many, however, as altogether unjustifiable. It was contended, indeed, by some of the political friends of the national administration, that as war had been declared by Congress, the people ought not only to cease all objections to it, but to acquiesce in and to support it. To question the justice or expediency of the war, was represented as a political sin, approaching almost to treason against the nation. What rendered this conduct the more remarkable was, that the party and the individuals, who expressed such opinions, had, a few years before, been very severe in their censures of the policy and measures of the federal government; especially in 1795, when Washington made a treaty with England, and in 1798, when President Adams prepared to defend the honour of the nation against the insolence of the French rulers.

But when political feelings run high, it is almost in vain to expect consistency or reason. The citizens of the United States, however, have never yet given up their right to discuss the policy and public conduct of their Representatives. This independent and republican trait of character has always been particularly manifested in the intelligent people of Massachusetts. In a really free country, it cannot, indeed, be otherwise. It is only where the rulers are independent of the people, and the latter have no power or privileges but what are granted by the Prince, at his pleasure, that men will fear to assert their rights, or to act as censors upon the conduct of their public agents.

During the winter of 1813-14, the people were not subject to many alarms, and few of the British vessels approached the coast of Massachusetts. But it was apprehended, that the war which had continued nearly two years, would be prosecuted by the enemy, the ensuing season, with greater resolution and force, than they had done before. This apprehension afterwards proved to be too well founded. As the spring opened, the enemy's ships on the coast were more numerous than at any former period of the war; and it was the general opinion of the people, that more efficient means for the defence of the State ought to be adopted. The Legislature had indeed, at their session in February, in anticipation of partial invasions from the enemy, and on recommendation of the Governor, authorised him to continue the commissioners for the defence of the sea-coast, and made further appropriations to provide additional means of protection to the people. The arms, before repeatedly requested of the United States, had then been received, to the number of fifteen hundred; but these did not constitute the full portion belonging to Massachusetts.

In December 1813, Congress passed an act laying an embargo, the duration of which was not to exceed a year. This measure was very oppressive in its operation, and gave complaints, on the part of the people, as great as the embargo of 1807, or even the declaration of war itself. It was extremely obnoxious to the citizens on the sea-coast, who were most directly and immediately subject to its operation. It interdicted the coasting trade from one port to another in the same State, and forbid the occupation of fishing also near the harbour,

thus preventing the article in the market and destroying the business of many industrious citizens who depended on it for a living. This law was the more obnoxious to the people, because it was to be construed by the officers of the general government, under instructions from the President, and thus was liable to be executed with partiality. The fishermen of Boston were, in fact, forbidden to pursue their wonted business, while those of some towns in the vicinity were permitted to engage in the same occupation without any restraint.

When the Governor addressed the Legislature, in January 1814, he spoke of this law, as oppressive to the people, and plainly intimated that it was unconstitutional. "The late act of the national government, interdicting the trade coastwise between different parts of the same State, as well as between the States respectively," he said, "contains provisions of such a character as makes it worthy of inquiry, whether any measures can be properly adopted by the government of this State, which would be likely to induce Congress to repeal them, or to amend them in such manner as to render their constitutionality less questionable."

The Governor referred, briefly, to the policy and conduct of the national rulers, as to the origin and management of the war. He expressed a belief, that the government of France had too much influence over the measures of the administration of the United States, and a fear, that there was no wish to bring the war to a close.

The following paragraph in the speech of the Governor at this time, was very pertinent, and could not fail to have a good effect. "The right of fully investigating political subjects and freely

expressing our sentiments in relation to them, is secured to us by the constitution, and is essential to the public safety and the preservation of a free government. Without the exercise of this right, the most oppressive laws would not be repealed, nor the most grievous abuses reformed. And whoever attempts to restrain this privilege, whatever name he assumes, is not a friend to republican liberty."

The Representatives, in their answer to the Governor's speech, remark—"By the seasonable assertion of their right to investigate political measures, the people of this Commonwealth have checked a disposition manifested in some parts of the country, to stifle fair inquiry, to suppress the freedom of speech and of the press, and thus to protract the evils of mis-government and screen the errors and vices of the ruling party, from exposure."—This answer of the House of Representatives is so able, and describes so justly the condition and feelings of the people, at that period, that the whole will be given in the appendix.

Some time in January, a motion was made in Congress to authorise and direct a prosecution to be instituted against the Governor of Vermont; and before any decision was had, there was a good deal of excitement on the subject, and many were led to apprehend a purpose in the general government to assume and exercise an arbitrary power over the State authority. A resolution was offered in the House of Representatives of Massachusetts to the following effect—"Whereas certain resolutions have been proposed in Congress, to authorise and direct a prosecution to be instituted against the Government of the State of Vermont, for his official conduct in relation to the militia of that

State, the command of whom, except in cases specified by the constitution of the United States, belongs of right to the executive authority of that State—and while the respect due to the National Legislature forbids the belief that so flagrant an indignity to an independent State will finally receive their sanction ; yet as every attempt to make the Chief Magistrate of a State amenable for his official conduct to any tribunal, other than that elected by the people of the State over which he presides, is a subject of just alarm and ought to be promptly repelled—Therefore, resolved that it will be the duty of the Commonwealth of Massachusetts to aid the Governor and people of Vermont, or of any other State, with their whole power, in enabling them to support their constitutional rights, whenever the same shall be in danger of infringement from any quarter ; and that it will be the duty of this Legislature, whenever requested by the Legislature of Vermont, or of any other State, on having evidence of such infringement of their constitutional rights, to make provision by law for their effectual support.” The resolution was laid on the table, at the instance of the member who offered it, as Congress had not acted on the subject.

The fishermen of Boston, who were thrown out of employment by the embargo law of December 1813, presented a memorial to the General Court, at this session, stating their privations, and complaining of the arbitrary measures of the national government, under the operation of which they were suffering. They represented, “that by this act they were prohibited from the exercise of their accustomed occupation which gave them and their

families their daily bread." They said, "they were aware that the Nation was involved in a disastrous and ruinous war; and though they were ready to submit to the necessary privations it might occasion, they had yet to learn, that any principles of civil liberty, of expediency, or even of despotism, could justify the entire sacrifice of one portion of the community, while others were permitted to riot in prosperity and luxury. With the light, which the plain words of the constitution afford us, we have sought for the provision, which authorises Congress to restrict any portion of the coasting trade between ports of the same State, but we have not been able to find any such power. We formerly supposed there was a division of sovereignty, and that some little portion of power was reserved to the States, respectively. We did not indeed know, till rueful experience convinced us, that State sovereignties were an empty name, in the opinion of our national rulers. But when we sought for some apology or pretext for the interdiction of the *domestic fisheries*, which we could not suppose Congress would forbid without just authority, we were surprised to find, that no power had been given to Congress to controul this portion of our national industry."

The Legislature of Massachusetts, at this session, received petitions and memorials from more than fifty towns, many of which were in the interior of the Commonwealth, calling the attention of the State authority to the impoverished and suffering condition of the country, and expressing great dissatisfaction with the war policy of the general government. They all declared their belief, that the war was unnecessary, and was to be attributed

to the undue influence of a foreign power over the councils of the nation. Before the General Court was adjourned, resolutions were adopted by a very large majority, prepared by a Committee to whom the memorials had been referred. They were as follows—“Resolved that the act laying an Embargo on all ships and vessels in the ports and harbours of the United States, passed in December last, contains provisions *not warranted* by the constitution of the United States, and *violating the rights* of the people of this Commonwealth—That the people of this State, from its earliest settlement, have enjoyed the right of navigating from port to port within its limits, and of fishing on its coasts; that the free exercise and enjoyment of these rights are essential to the comfort and subsistence of a numerous class of its citizens; that the power of prohibiting to the citizens the exercise of these rights was never delegated to the general government; and that all laws passed by that government, intended to have such an effect, are therefore, unconstitutional and void—That the people of this Commonwealth have a right to be secure from all unreasonable searches and seizures of their property; that all laws, rendering liable to seizure the property of a citizen, at the direction of an individual, without warrant from a magistrate, issued on complaint, under oath, with the pretence that such property is apparently on its way towards the territory of a foreign nation, are arbitrary in their nature, tyrannical in their operation, and subversive of the first principles of civil liberty—That the people of this Commonwealth have a right to be protected in the enjoyment of life, liberty and property, according

to standing laws; and that all attempts to prohibit them the enjoyment of this right, by agents acting under executive instructions only, and armed with military force, are destructive of their freedom, and altogether repugnant to the constitution—That, as the well-grounded complaints of the people constitute a continued claim upon the government till their grievances are redressed, the several memorials and remonstrances lately presented to this Legislature be delivered to the Governor, with a request that he or his successor would cause the same to be laid before the next General Court, at an early day of their first session.”\*

\* Besides various ephemeral attacks on the conduct and opinions of Governor Strong, in the newspapers of the day, there was a series of essays or letters addressed to him, which first appeared in the “Boston Patriot,” and were afterwards published in a pamphlet, which were attributed to a young man of education and talents. The letters were written with some plausibility and more severity. The writer undertook to show that the Governor and Legislature of a State, had no right to question the conduct and policy of the national government, whose authority was paramount, as he contended, over the State rulers, in all cases; and that Governor Strong, therefore, had violated his oath and his duty, in not complying with the orders of the President of the United States, and his officers. The writer further attempted to prove, that the war was expedient, just and necessary, and that every one was bound in patriotism to support it. He considered it necessary, by a very laboured argument, to endeavour to justify the conduct of the national administration; but did not allow that any one must oppose or censure, it being the duty of all good citizens to support the measures of the national policy, without inquiry. This was not very consistent, nor very convincing to many; but the writer was applauded by the friends of the administration, and soon afterwards was liberally rewarded for his “useful labours.” The writer charged Governor Strong with “impertinence,” because he dared to question the wisdom and con-

In the month of April, on the request of Captain Bainbridge, of the United States' Navy, who apprehended an attack at Marblehead, where the Frigate Constitution was then lying, two companies of artillery and a company of Light Infantry were ordered from Boston, by the State authority, to march for the defence of that place and the ships in the harbour. And soon after, the same officer applied to the Executive of Massachusetts for aid from the Militia, when it was feared that the enemy, several of whose large armed vessels were then in the Bay, meditated an attack on the Navy Yard in Charlestown. On this occasion, the Boston Brigade, consisting of nearly 3000 men, were inspected anew, and assurances given to Captain Bainbridge, that the whole, or any part of the Brigade, as he might deem necessary, should be ordered out at the shortest notice, for the purpose he desired. A militia company belonging to Charlestown, and an independent company of Light Infantry from Boston were, successively, called out to guard the navy yard,\* and remained in ser-

stitutionality of some of the measures of the general government ; and accused him of exciting an insurrection in the Commonwealth. He also asserted, that the Governor and Legislature were in favour of a separation of the States, and had suggested and encouraged it in their official and public capacity. But he gave no proof, and could give none, of the justice of the charges. The Governor and Legislature had, indeed, continually and earnestly urged the people to forbearance and moderation ; and to seek redress of grievances only in a constitutional way. This writer had the impudence also to charge Governor Strong with copying, for his public speech, a message of the Prince Regent of England !

\* There were no regular troops in the service of the United States in the vicinity, to defend the place.

vice sometime at Charlestown and Chelsea, there being an apprehension that the enemy might land in the night-time, and set fire to the vessels and buildings of the United States, in that vicinity.

A few weeks later, Captain Hull, of the United States Navy, who had command of the navy yard at Portsmouth, in the State of New Hampshire, was apprehensive of an attack, and applied to the military officer in the service of the United States in the district, for protection. A portion of the militia of Massachusetts were thereupon requested to be called into service for that object; as well as the militia of New Hampshire, which were in the vicinity of that place. The militia in the county of York in Massachusetts, were immediately called out to the number of 250. Their term of service, however, was short, for the alarm soon ceased. In September following, a greater number of the militia of Massachusetts, between 800 and 900, was called out, for the protection of the town of Portsmouth and the Navy Yard there situated; some difficulty, at that time, having prevented those belonging to New Hampshire from marching to that place.

During the month of April, (1814) there were alarms in the counties of Barnstable, Plymouth, Cumberland, Lincoln and Hancock; and the inhabitants were furnished with the means of defence by the military commissioners of the State, as they applied for them, and usually to the amount they requested. Many towns had been supplied before. Detachments of the militia were also ordered out, at these places, and kept in service as long as danger was apprehended by the officers in the vicinity. By the general order of the Governor, of July 3d,

1812, the officers of the militia had much discretionary power given them. But it was seldom abused. In no instance did the militia officer refuse to call out his men, when there was real danger of invasion ; but, sometimes, they marched on alarms, when no just cause of fear existed. Generally, the militia were required to march but short distances, and were kept in service no longer than was necessary to protect the people, or till their fears had subsided.

In June, there was an alarm at Salem, as several armed vessels of the enemy were near the coast, and at a short distance from the entrance into the harbour of that populous town. The fort belonging to the United States, at the mouth of the harbour, was not sufficiently manned to afford protection to the town against the British ships of war. Cannon and other military articles, to a large amount, were accordingly provided, by order of the Governor, for the defence of that ancient and opulent town. The militia also were called out from the towns in the vicinity, and a regiment marched from Boston, for its protection.

The alarms now became very frequent in the towns on the seaboard. The citizens of Boston were apprehensive of an attack at this period ; and a regiment of militia was encamped upon the Common for a short time, and then ordered to Dorchester heights, where it remained for several weeks. The companies composing the other two regiments of the town, were frequently called out for discipline ; and were in a state of preparation for service at a moment's warning. The heights of Dorchester (or South Boston) were fortified ; and a new fort built on Noddle's Island, opposite to the town, in

an eastern direction, chiefly by the voluntary labours of the people of Boston and vicinity. Many of the citizens, also gave their service, in putting the United States fort on Governor's Island in a more efficient condition than it had been for some time before. Intelligence from Europe, at this time, was not favorable to a speedy restoration of peace. The necessity of defensive measures became more apparent. In Boston, as well as in many other places, public meetings were held, at which all political parties attended, and united in recommending further means of preparation and defence.

## CHAPTER XI.

Mr. Strong re-elected for 1814.....Extracts from his speech to the Legislature.....Extracts from the answer of the Senate and House of Representatives.....General alarm on the seaboard, and militia called out.....A million of dollars appropriated for defence.....Forts built.....Citizens volunteer their services.....Castine taken by the enemy.....Arrangements with commanding officer of the United States.....Objections to the plan.

Mr. Strong was elected Governor for the year 1814, by a large majority of the votes of the people, which was justly considered an expression of their approbation of his public course during the two preceding years. The majorities of both branches of the General Court, also, approved of the policy of Governor Strong, and supported him in all the measures he proposed. Great efforts were made, however, by those who were in favour of the war, to elect rulers of different political views.\*

\* The political opponents of Mr. Strong supported Samuel Dexter for Governor. Mr. Dexter was at Washington when he was proposed as a candidate by the Democratic party. But he addressed his fellow citizens of the State on the subject. He did not expressly refuse to be a candidate, and yet declared that he was not one of the party who had nominated him. He also condemned the policy of the war and the anti-commercial measures which led to that event. He said "the Embargo overleaped the bounds of the Constitution ; that it was unjust and oppressive to the commercial part of the community ; that

Governor Strong never wished to assume any power which was not given him by the Constitution for the public welfare ; and never attempted to dictate to the Legislature what measures it would be proper for them to adopt ; at the same time, he did not shrink from an expression of his opinions, nor from suggesting what he believed important and necessary to be done. The Representatives indeed acted under a deep conviction of their accountability to the people, and of their having important public duties to perform for the prosperity of the State. And so far were the rulers and representatives from urging or exciting their fellow citizens to any acts of opposition to the general government, that they exerted their influence to keep down the spirit of discontent, which was manifested in various parts of the State ; and particularly among the people on the sea board, who were suffering very severely by the war. The Governor, repeatedly, in his public speeches, exhorted the people to moderation and forbearance ; and the Representatives, while they readily made known the grievances and sufferings of their constituents, and at their request, remonstrated to Congress against the war, never failed to recommend to them to seek for redress only by legal and

it was impossible to execute it ; and that the attempt to execute it corrupts the people by destroying the correct habits of the merchants, and rendering perjury familiar." Still he seemed to be of the opinion that as war had been declared by the competent authority of the country, the national government, it was proper to join in prosecuting it, that it might be sooner brought to a successful issue. Governor Strong received almost as large a majority of votes as he did in 1813, when the opposing candidate was far less talented or impartial than Mr. Dexter.

constitutional means. It was a great satisfaction to Governor Strong, that, during the critical period of the war, his constitutional council and advisers were wise, intelligent and patriotic characters. Those elected for 1814 were Generals Cobb and Brooks, Honorable James Lloyd, Benjamin Pickman, Samuel Fales, Oliver Fiske, George Bliss, John Lord and Nahum Mitchell.

The Governor had so often and so recently given his opinion respecting the war and the effects of it, that, on his election, in May 1814, he did not go very fully into the policy of the measure. But it was evident his opinions and views on the subject were not changed. For it was not his desire to find fault with the national government, nor to increase the discontent and opposition of the citizens of the Commonwealth. His sentiments may be gathered from the following paragraph in his Speech to the Legislature.

“ Since the last session of the Legislature, the embargo and non-importation laws have been repealed. This measure must afford peculiar pleasure to the people of this State, and it seems to indicate a more mild and pacific disposition in the general government, and may be considered as a final relinquishment of that restrictive system, the distressing effects of which we have abundantly experienced in the course of the last seven years; and which, however, designed to operate against a foreign nation, has been found to be far more injurious to ourselves. The last embargo law interdicted the right of navigating from port to port within the limits of the State, and fishing on its coast, from which we suffered, probably, more than the people of any other part of the nation. But

though these provisions and some other parts of the act were generally believed to be infringements of the Constitution, we have not heard of any violence in opposing them. Our fellow citizens are entitled to much credit for the exercise of that forbearance which was recommended by the late Legislature. From the time that war was declared, a great proportion of the people in this State have viewed the measure as unnecessary and unjustifiable. Their sentiments were well expressed by their Representatives then assembled, and afterwards at every subsequent meeting of the State Legislature. Our national rulers, therefore, had no reason to expect, that, with these sentiments, we should do any thing more in support of the war, than they had a right, by the Constitution, to demand ; and they could not expect it unless they supposed us destitute of all moral principle. Nor has the manner of conducting the war had any tendency to satisfy us of its policy or justice. It was commenced and is still prosecuted against the unoffending inhabitants of Canada. But as Congress have authority, by the Constitution, to declare war, and to impose taxes to defray its expense, we are bound to obey the laws which are duly enacted for that purpose ; and I am happy to observe, that none of the measures of the general government have been opposed by force or violence, and that no dangerous commotions have disgraced the people of this Commonwealth.”

The answer to the Governor’s Speech, both from the Senate and from the House of Representatives, afforded proof of the agreement of the citizens, very generally, with the opinions expressed by the Chief Magistrate. He was elected, this

year by a majority of ten thousand votes; and more than two thirds of the Representatives had the same views of the war which the Governor entertained. Some extracts from the answers of the two branches of the General Court will exhibit the sentiments of the majorities in each.

“ The injuries which the people of this Commonwealth have experienced, and the sufferings they have endured, from the oppressive measures of the national government have been great and manifold, and have been borne with a patience almost unexampled. Among these measures, the system of commercial restrictions, which for nearly seven years has been so cruelly enforced, is not the least considerable. Under the operation of this system, our citizens have been driven from their accustomed employments, deprived of the means of subsistence, and cut off from all the sources of wealth. Not only has their intercourse with foreign nations and the neighbouring States been prohibited, but they have even been interdicted the right of navigating from port to port within the limits of the State and of fishing on its coasts.

“ Powers, which the people of this Commonwealth had never delegated to the national rulers, have been exercised with great severity for their distress and impoverishment: and rights, which they never surrendered, have been torn from them by a ruthless violence, under the forms of law. And to oppressions and restraints, alike hostile to the principles of civil liberty and the express provisions of the Constitution, it was not to be expected, that a free people, jealous of their rights, would long submit in silence.

“ The sentiments of the people of this State, as

well as of their Legislature, upon the subject of the war with Great Britain, have been so often expressed, that it is unnecessary for the Senate to repeat their solemn conviction of its injustice. Our national rulers and the world well know, that the sons of Massachusetts, the legitimate descendants of those who achieved our Independence and founded the American Republic, are not regardless of the rights, the honor, or the interests of the nation. They know full well, that in a just and necessary war—a war for the maintenance or defence of either of these great objects, no sacrifice would be deemed too great, and no privations intolerable.

“ In the opinion of the Senate, it is not only the right, but the duty of a people, mindful of what they owe to their country and posterity, to oppose by all peaceful and constitutional means, a war thus declared and thus prosecuted. But we are happy to observe, that none of the measures of the general government have been opposed by violence, and that no dangerous commotions have disgraced the people of this Commonwealth. The war has been one of great expense and suffering; and may be one of disgrace to the rulers of the nation; but we trust and believe it will not terminate in our slavery and subjugation.”

In the answer of the Representatives, after congratulating the Governor on his re-election, they observe, “ that, in this event, they perceived with the highest satisfaction the renewed pledge, given by the people of the State, of their determination to maintain and support those great principles of public policy, which had characterised his administration.” Referring to the Embargo law, which was passed in December, 1813, they say, “ this

act, not only overleaped at once the limits of constitutional authority, but manifested an open and undisguised attempt to establish an arbitrary despotism, enforced by military power, not sanctioned even by the forms of legal process, and utterly subversive of the first principles of civil liberty. What are the high and invaluable privileges which distinguish a free people from the slaves of a capricious despotism ? Are they not these,—to be at all times secure in their persons, property, and pursuits,—to be governed by known and equal laws, and to be judged only by legal and constitutional tribunals ? Yet how deeply does the act mentioned entrench upon all these rights and privileges ? After a general prohibition of the coasting trade, the President was authorized to give permission to individuals, at his pleasure, which must necessarily introduce an odious system of favouritism.

“ We concur with your Excellency in commanding the forbearance and moderation which have been uniformly displayed by our fellow citizens, under their various privations and sufferings. Though deeply imbued with the love of civil liberty, yet they are impressed with the love of order, of good government, and of respect for the laws. The love of liberty, which animates the people of this Commonwealth, is not the unprincipled licentiousness of such as seek, in violence and civil commotion, the gratification of selfish passions ; but a firm and unshaken attachment to their constitutional rights, regulated by wholesome and energetic laws. Grossly, therefore, do those mistake the character of our citizens, who regard their forbearance as the result, either of that ignorance which cannot discern, or of that pusillanimity which will not protect their essential rights.

“ The House of Representatives still deeply laments, in common with your Excellency, the continuance of the war in which we are involved. This House has invariably expressed its disapprobation of the measure. We can only add, that we concur with our predecessors in the belief, that it was neither necessary, justifiable, nor politic. We have no hesitation, therefore, in expressing our firm conviction, that as men governed by moral principle, it is still our duty to abstain from every voluntary act, which would give encouragement to the prosecution of the war. We shall, however, concur in any measure, which may be considered expedient, for defensive purposes ; and which may become necessary, in consequence of the neglect of the national government to employ the means which the constitution has put into their hands to provide for the common defence and general welfare of the people.”

Before the General Court was prorogued, in June, one million of dollars was voted for providing the means of defence to the State, to be expended in such manner as the Supreme Executive should judge proper. By this resolve, the members of the Legislature gave the highest proofs of their confidence in the integrity and judgment of the Governor. This additional appropriation was rendered necessary, by the increase of the enemy’s ships on the coast, and by the voice of the people, that, in their exposed situation, greater means of protection and safety should be provided. For the invasion of Canada, by the national troops, the British seemed to retaliate, by annoying the inhabitants of the United States on the sea board. The alarms were so frequent and so extensive, that a

great portion of the citizens of Massachusetts were under arms, most of the time, for several months.

In the month of June, an arrangement was made by the Adjutant General\* of the Commonwealth

\* General John Brooks was then that officer. But difficulties arose on the occasion of calling out this detachment, which rendered it prudent, if not necessary, afterwards to decline placing the militia under the command of an officer of the regular army. The organization proposed by the officer of the United States army was different from that to which the citizens had been accustomed, or required to conform; and by which the militia companies would be wholly deranged, taken from the command of officers of their own choice, and subjected to that of officers, who were strangers to them, and whom they had not elected. The militia officers themselves objected to the proposed organization, and remonstrated against the command of officers in the United States army, except that of the General in chief.

The greatest number of the eleven hundred men, called out in compliance with the request of the United States officer, and placed under his command, were by him ordered to Fort Warren in the harbour of Boston. The residue were ordered to Castine and Eastport in Maine, to be placed in the forts of the United States, before these places were taken by the British. One of the officers of the militia placed in Fort Warren was of the rank of Colonel, and two of them were Majors; and they were put under the command of a Colonel of the United States army. What added to this untoward circumstance, was the fact, that the officer who then commanded the fort, was, a short time before, in the militia of Massachusetts, in the same Brigade, and of an inferior rank, to one of the officers now placed under him, and had been censured for unmilitary and improper conduct.

In the month of July, Eastport, on the Bay of Passamaquoddy, was attacked and taken by the enemy. The United States had a fort at this place, in which at the time were seventy-five men, under command of a Major. The British force was considerable, both in vessels and men. The fleet consisted of seven armed ships.

Colonel (afterwards General) Sumner, who was at that time an aid to the Governor, was sent to Portland, and other places

with Brigadier General Cushing, then the commanding officer of the United States on the station, on the request of the latter, to call out all the militia of Boston and vicinity, if it should become necessary to repel an invading enemy; and the militia, when so called out, were to be under the direction of General Cushing, though the officers of the militia were to retain their respective stations of command, as they had been elected. On the removal of this officer to another station, General Dearborn again had the command, as an officer of the United States, in Massachusetts; and when, in July, he requested that the militia should be called out and placed under his command, to the number of 1100 or 1200, the Adjutant General was directed by the Governor to call out the militia, as asked for, if a similar arrange-

ment was made in Maine, clothed with discretionary power to direct in the measures of defence by the militia in that part of the State. It was also expected of him to give early and correct information to the Supreme Executive, as to the situation of public affairs in that quarter. He had much to accomplish, and proved a faithful and efficient officer. By his advice and influence, an arrangement was made for calling forth the militia to protect the town of Portland, and putting them under a General officer of the United States, commanding in that place. But that officer was soon called to a distant service, and an officer of the rank of Major left in command. The militia officers, therefore, absolutely declined the service, when ordered out. The citizens of the place, however, prepared for its defence, with all the means at their command. See Appendix.

By the general order of the Governor, of July 18, 1814, the Major Generals near the sea coast, were required to inspect anew their respective divisions, and to have them in readiness to march, at the shortest notice, for the protection of any place in their vicinity, which might be attacked or invaded. This was in addition to the specific order for a detachment of 1100, in compliance with the request of General Dearborn; though the orders were issued at the same time. See Appendix.

ment could be effected, to that made with General Cushing. This was full proof of a disposition in Governor Strong to act in concert with the officers of the national government, for the public defence, when the exigency existed to require it.

On the first of September, the town of Castine, in Maine, was taken by the British, who came with a large fleet, consisting of thirty vessels, among which were two seventy-four gun ships, and several frigates, and upwards of 3000 troops. The enemy came unexpectedly, and no resistance was made by the inhabitants. It could not have been defended without a great number of troops; nor be retaken from the enemy, without a naval force superior to them. The governor was censured for not attempting to drive off the British and to take possession of the place; but the attempt would have been utterly vain, with any force at the command of the Executive of Massachusetts; and the militia were also needed to prevent the capture or plunder of many other towns. The British remained in possession of Castine until the intelligence of peace arrived the following Spring; but they were charged with very few acts of depredation on the inhabitants of the place while they continued there. On their first arrival, however, they landed at Belfast, Hampden and Bangor, where the troops committed various outrages. The British officers conducted with less violence, and pretended to be unable to restrain their men in all cases. Their principal object in going up the river, it was supposed, was to take an American sloop of war then lying opposite to Hampden. The commander ordered his ship burnt, to prevent her falling into the hands of the enemy. The mi-

litia were collected at that place under General Blake to oppose the British. But his force was not sufficient to withstand them. Some skirmishing took place; and two of the militia were killed and several were wounded.

It was pretended by the opponents of Governor Strong, that he was averse from affording any assistance to the people, even when there was real danger. But not only his declarations go to disprove the charge, but his acts also, by which he placed the whole State in an attitude of defence, and recommended, repeatedly, to the Legislature, to provide the means of protection. If the Adjutant General advised to or suggested the plan of placing the militia under the United States officers, the Governor readily consented, insisting, indeed, that they should not be marched out of the State, nor have their officers removed. In 1814, when invasion threatened and danger was imminent, the Governor consented to put the militia under the command of an officer of the United States, in several instances—but the officers of the militia remonstrated against it.

The following extracts from letters of Governor Strong to the Adjutant General are further in proof of his willingness to afford assistance by the militia, in time of danger. In a letter of June 12th, 1814, he said, “I have just received your letter inclosing one from Commodore Bainbridge, and I am disposed to do every thing in my power to aid his views in defending the town of Boston and navy yard at Charlestown and the ships in the harbour, so far as my authority, by the Constitution will warrant. And in the present case, I see no difficulty in complying with his or General

Cushing's verbal request (which you stated to me yesterday) that a company of militia be called out to guard the approach to the navy yard, by Chelsea; and also that in case of imminent danger of attack, a requisite number of the militia be called to Forts Independence and Warren, to be under the command of General Cushing, as he proposed, and to be discharged when the danger ceases."

On the 12th July, in a note to General Brooks, he said, "I have received a request from General Dearborn, that the necessary orders may be issued for detaching a number of the militia for the defence of the sea coast within this State. It appears to me, that the danger now apprehended of an invasion will justify a call of this kind by the national government, and a compliance with it on my part. General Dearborn proposes fully to communicate to you his views, as to the particular destination of the militia which may be detached. His suggestion, that they should be taken as far as may be, from the vicinity of the respective posts, to which they are to be called, I think is reasonable and proper. The militia, in that case, will be less burdened, and will feel more responsibility: For young men, at a distance from their homes, are apt to forget what is due to their own character, and the restraints of a moral kind, which regulate their conduct. As a number of the militia have been lately called out to defend the towns on the sea coasts, perhaps, the same may be designated as a part of the force required by General Dearborn. If you can make such arrangements with General Dearborn as were proposed by General Cushing, it will be satisfactory to me."

At this time, the Governor issued a general order, as commander in chief of the militia of the State, calling upon the officers of Brigade and Division near the sea coast, to see that those of their respective commands were in readiness for service and action whenever summoned to the field. The Major Generals of the first, second, third and fifth Divisions, which include the counties of Suffolk, Essex, Middlesex, Plymouth, Bristol, and Barnstable, and of the Divisions, to which belong the counties of York, Cumberland, Lincoln, and Hancock, were particularly mentioned in the order and directed to be on the alert to prepare to meet attacks in their vicinity, however suddenly made. Major General King, in the county of Lincoln, was authorised to call out the militia, and to place a part of them in the United States' forts on Kennebec, Sheepscut, and Damariscotta rivers, if he should consider it necessary, or suppose they could there defend the towns with the best effect. He was very active in devising measures of defence; and usually consulted with a national officer of the rank of Colonel, then stationed in that quarter. He also gave full information to the Governor, of the conduct of the enemy on the coast, and of the wishes of the people as to the means of defence. On several occasions, the militia were called out by his orders; but only at times when the enemy's ships were near; nor were they kept in service when danger no longer existed.

The collision, which at any time took place between the Governor of Massachusetts and the chief officer in the United States' service in the District, was owing to a requisition from the latter when no invasion existed, or immediately

threatened ; or when the militia were to be commanded by other officers of the regular army, besides the General in chief on the station. The organization proposed by the officer of the United States was obnoxious to the militia officers. They presented remonstrances against it to the Governor and to the Generals of Division to which they belonged ; and in one case all the officers of a Brigade which had been called out near Portland, refused to march, on that account. The General officers in and near Boston, when interrogated by the Governor, expressed the opinion, that such an organization of the militia could not be effected. Still, the militia turned out with great alacrity, whenever required. In the month of September, orders were issued, on request of General Dearborn, for the militia within twenty-five miles of Boston, and near the coast, to be in perfect readiness to march at any moment when called for. A few days after when there was an alarm in Boston, nearly 3000 from the county of Norfolk assembled on the Common in that town, within twenty-four hours after the order was issued. The sentiment universally prevailed, that, whether the war was at first expedient and proper, or not, it was an absolute duty to defend the Commonwealth against the enemy ; and to shew them that when the country was in danger no service would be withheld.

In some cases, however, the plan of putting the militia under the chief command of the United States' officer, while they were commanded immediately by their own officers, was carried into effect. In consequence of an agreement with Major General Dearborn of the United States' army, the militia, amounting to nearly a Brigade, were

placed under his command, in the fall of 1811, and ordered to Fort Warren, in the harbour of Boston. They were commanded by Brigadier General Dearborn, of the first Brigade and first Division, son of the United States' officer, and in compliance with his particular request; although there were older Brigadier Generals in the Division. On request of Major General Dearborn, in the month of September, it was proposed to call out a Division of the militia for three months, to be stationed in and near the capital of the State, and to place them under his command; but there were so many objections to this arrangement by the militia, both men and officers, that the Governor considered it proper to relinquish it.

This course was adopted by the Supreme Executive, in conformity to the sentiments and feelings manifested by the great body of the people. Many intelligent citizens, who were as much dissatisfied with the war as the Governor was, approved of the policy of this conduct. It was evident the exigency existed, and that the Governor had acknowledged it, for calling the militia into the service of the United States. How far a desire to comply with the opinion of the people, in a republican government, is an apology for deviating from the course clearly required by law and the Constitution, may be a question with many honest Statesmen. But may be proper, to be governed by considerations of expediency, when the people generally, in a free government, are in a state of high excitement. The situation of the country was such as to require the service of the militia; but at the same time, it would have been hazardous to compel them into that service, on the conditions

proposed by the United States' officer in the District. Though the service was not rendered precisely in the way required, it was promptly and efficaciously performed. The circumstances of the case might furnish an excuse, if it did not fully justify the course pursued by the Executive authority of Massachusetts.

A Division was immediately called into service, and stationed at Dorchester, about four miles from Boston. But they were not put under the command of the officer of the regular army. A Major General of the Militia was appointed to command them; and had two Generals of Brigade under him. This detachment remained at Dorchester about two months, when they were discharged, it being supposed the enemy would not attempt any invasion during the winter. They were taken from the western Counties of the State, and from the interior, while those who resided near the sea coast were required to be in readiness for the defence of their respective towns. A reserve corps was stationed at Cambridge, three miles west of Boston, for the purpose of aiding in the defence of the Capital and the Navy Yard, if an attack should be made by the enemy.

Those measures were attended with great expense to the State; but it was considered necessary to call out this large body of men, to quiet the fears of the people, for which there was far greater cause, than at any former period of the war. Attacks had been made on most of the large towns in various parts of the country, as well as within the State of Massachusetts, and it was believed that an attack was meditated on the town of Boston, and the navy yard at Charlestown in the vicinity.

The Governor wrote to the Secretary of War, at this time, stating the great expenses incurred by the Commonwealth in the measures of defence which had been adopted by the State authority, as there were no regular troops of the United States ordered for its protection; and requesting assistance from the general government. The Secretary of war replied, that no expenses for the militia would be reimbursed, except in cases where they had been called out in compliance with the requisition of an officer of the United States.\* Nor did he promise money or troops for future protection. And thus the State was abandoned to destruction or great calamity and expense, by an act of the general government, and was obliged to provide for its own welfare at the expense of its citizens, while it was contributing its full share to the public treasury of the nation.

\* But the national government did, in 1793, 4, order reimbursement to be made to the State of Georgia, for expenses of the militia to protect the inhabitants against the Indians, who had been called out by the Governor, without any direction from the President of the United States. But as it was considered that the measure was proper, Congress voted to pay the expense. And in several instances where the militia were called into service, without orders from the President, but where the danger required it, in 1813, and 1814, the expense was paid by the United States.

## CHAPTER XII.

Extra meeting of General Court in October 1814.....Extracts from the Message of the Governor to the General Court.....Report and Resolutions of the Legislature.....Further measures proposed for defence of towns on the sea coast....A convention recommended of delegates from the New England States.....Places defended by the militia.

Notwithstanding the power granted to the Governor in June, to provide the means of protection to the people, and much was done under his direction for the defence of the State, he called the General Court together in an extra session the 5th of October, to consult for the safety of the Commonwealth. The crisis was full of danger to the State ; and the Governor did not choose to take upon himself the whole responsibility of the public measures, when there was so much alarm and discontent. It was not merely on account of the danger of occasional attacks upon the towns on the sea coast, that the Governor concluded to summon a special meeting of the Legislature: For he had power and means, by calling out the militia, to repel such invasions. But the hope of a speedy termination of the war had been extinguished, and the naval force of the enemy, on the coast, was greatly augmented. Thus the danger increased, and the expenses of defensive measures were accu-

mulating a heavy debt on the Commonwealth. The opinion also generally prevailed among the people, that some further means should be adopted to prevail on Congress to make peace, or to enable the State to prosecute the war, instead of drawing solely from its own individual resources.

When the General Court convened, the Governor immediately sent a message to both branches, in which he observed, that the war in which we were unhappily involved had assumed an aspect threatening and destructive; and thus a great change had taken place in the state of public affairs. He therefore thought an extra meeting of the Legislature indispensable, and the Council also advised to the measure. "At different times and for short periods," he said, "a few of the United States' troops had been stationed within the Commonwealth; but most of them having been withdrawn for the purpose of aiding in the operations against Canada, it was found necessary to call out a number of the militia for the protection of the places most exposed on the maritime frontier, and to furnish the citizens thereof with the means of defence." He then referred to the request of General Cushing to call out the militia and place them in Fort Warren, to defend the town of Boston, and the navy yard at Charlestown, in case of danger; (General Cushing having agreed that the militia should be subject to the command of no officer of the United States' army, except the General in chief of the District;) and his consent to the request, in the exigency of the period, and the absence of the regular troops in the service of the United States. The Governor referred also to the application of General Dearborn in July, for eleven hundred of the militia, to be placed (principally)

in the forts of the harbour of Boston; to which, he said, he gave his consent, on the condition, that the Adjutant General would make the same arrangement respecting the militia officers, as had been made with General Cushing, when he commanded on the station, a short time before.\*

The Governor then mentioned the other requisition of General Dearborn, in September, for five thousand of the militia; chiefly for the defence of Boston and Charlestown; but in part also for that of towns in the counties of York, Cumberland and Lincoln. With this request, the Governor said he did not comply, because of the difficulties and objections before stated. Before the last application was received, he had issued an order, dated September the 6th, for a division of the militia to be detached from the interior of the State, and to march to the vicinity of Boston. This order was promptly carried into effect, and a Major General of the militia was appointed to command them. But had there been any attack on the forts in the harbour, or on the navy yard at Charlestown, no doubt they would have been ordered to act in conformity to the wishes of the commanding officer of the United States army, on the station. The Governor concluded his message, by observing, "that the situation of the State was very dangerous and perplexing. We have been led, by the terms of the Constitution, to rely on the general government to provide the means of defence; and to that gov-

\* These militia were called out, and ordered by Gen. Dearborn to fort Warren, where difficulties arose on the part of the officers, as before mentioned; which afterwards prevented the placing of the militia under command of the United States officer.

ernment, we have resigned the revenues of the State. It has declared war against a powerful maritime nation, whose fleet can approach every part of our extended coast ; and we are disappointed in the expectation of a national defence. But though we may believe the war was unnecessary, and has been prosecuted without any useful or practicable object against a province of the enemy, while the sea coast of this State has been left almost wholly defenceless ; and though in such a war, we may not afford voluntary aid to any of the offensive operations, there can be no doubt of our right to defend our possessions and dwellings against any hostile attacks.”

The committee, to whom the Governor’s message was referred, made a report ; from which the following paragraphs are given.

“The state of the national treasury requires a great augmentation of existing taxes ; and if, in addition to these, the people of Massachusetts, deprived of their commerce and harrassed by a formidable enemy, are compelled to provide for self defence, it will soon be impossible for them to sustain the burden. There remains to them no alternative but submission to the enemy, or the control of her own resources, to repel his aggressions. It is impossible to hesitate in making the election. This people are not ready for conquest or submission. But being ready and determined to defend themselves, and having no other prospect of adequate means of defence, they have the greatest need of all those resources derivable from themselves, which the national government has thought proper to employ elsewhere. Your committee is also of opinion, that, if the war is to continue, provision

should be made for a military force, in addition to the ordinary militia; that a considerable force must be embodied and maintained ready to meet the enemy in his varied enterprises; that the continual calls upon the militia to march from home at all seasons, and to remain at a distance from their families, will be the most oppressive and least economical of any mode of defence, which can be devised, in a protracted warfare.

“ But while your committee think, that the people of this Commonwealth ought to unite, and that they will unite, under any circumstances, at the hazard of all which is dear, in repelling an invading foe, it is not believed, that this solemn obligation imposes silence upon their just complaints against the authors of the national calamities. It is, on the contrary, a sacred duty to hold up to view, on all occasions, the destructive policy by which a state of unparalleled national felicity has been converted into one of humiliation, of danger and distress; believing, that unless an almost ruined people will discard the men and change the measures, which have induced this state of peril and suffering, the day of their political salvation is past.

“ It is not to be forgotten, that this disastrous state of affairs has been brought upon Massachusetts, not only against her consent, but in opposition to her most earnest protestations. Of the many great evils of war, especially in the present state of Europe, the national rulers were often warned by the people of Massachusetts, whose vital interests were thus put in jeopardy.—But the general government, deaf to this voice, and listening to men distinguished in their native state, only by their disloyalty to its interests, and the enjoyment of a

patronage bestowed upon them as its price, have affected to consider the patriotic citizens of this great State as tainted with disaffection to the Union and with predilections for Great Britain, and have lavished the public treasure, in vain attempts to fasten the odious imputation."

Resolutions were also offered by the committee, and adopted, of the following import—"That the calamities of war being brought home to the territory of the Commonwealth, the sea coast invaded, in many places, and exposed to immediate danger in all, the people of Massachusetts are impelled by the duty of self defence and by all the feelings and attachments which bind good citizens to their country, to unite in the most vigorous means for defending the State and repelling the invader; and that no party feelings or political dissensions should interfere with the discharge of this exalted duty—That a number of men be raised not exceeding 10,000, for twelve months, to be organized and officered by the Governor, for the defence of the State—That the Governor be authorized to borrow from time to time, a sum not exceeding one million of dollars, and that the faith of the Legislature be pledged to provide funds for the payment of the same—And that persons be appointed as delegates from the Legislature, to meet and confer with delegates from other States of New England, upon the subject of their public grievances and concerns, upon the best means of preserving our resources, and of defence against the enemy, and to devise and suggest for adoption by those respective States such measures as they may deem expedient; and also to procure, if they think proper, a convention of delegates from all the United

States, in order to revise the Constitution, and more effectually to secure the support and attachment of all the people, by placing all upon the basis of fair representation."

These resolutions were adopted, in the Senate, by a vote of 22 to 12; and in the House of Representatives, by a vote of 250 to 70.

A few days after, the committee made another and further report on the state of public affairs; from which the following extracts are taken, expressive of the views of the General Court at that period.

"In the opinion of the committee, the application to the Secretary of War, for aid and means, for the protection of this State, was highly proper; and that the reply of the Secretary is of a character justly to alarm the citizens of this Commonwealth. It is provided by the Constitution, that the United States shall guarantee to every State in the Union, a republican form of government, and shall protect them against invasion. To enable the United States to do this, power is given to call forth the militia "to repel invasions," to provide for organizing, arming, and disciplining the militia, for governing those employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

"Before the adoption of the national form of government, the State of Massachusetts possessed every attribute of sovereignty; and the people would not have surrendered those relating to peace and war, to negotiation with foreign powers, and to the resources of the State founded in taxation, but on

the assurance that the surrendered powers would have been used to provide for the common defence to protect the State against invasion, to promote the general welfare, and to secure the blessings of liberty to them and their posterity. At a moment, then, when a war, commenced by our national rulers, is prosecuted to conquer the provinces of the enemy, and is retaliated on the Atlantic States with powerful fleets to desolate the country, the committee cannot but consider the answer of the Secretary of War as evidence of a disposition on the part of the national administration to withhold the equal benefits of the Union, to which this Commonwealth is entitled.

“ It appears by this answer, that the national rulers, soon after the declaration of war, anticipated danger to the sea board; and though it was certain the Atlantic frontier would be invaded, the troops of the United States were employed to effect the conquest of Canada, and the only provision for defence was to divide the United States into military districts, with a few regular troops, under the command of an officer of high rank in the national army, with power to call for the militia as he might think proper. If this system was intended as a performance of the responsible duties which the general government owed to the individual States, it behoves Massachusetts to inquire, whether those acts were a performance of those duties; and if not, to seek that redress which is consistent with its rights, and to ascertain the measures necessary to be adopted to meet the dangers, which the policy of the national rulers has produced.

“ To the inquiry of the Governor, whether the

heavy expenses incurred for the defence of this State, when no adequate protection was afforded by the general government, would be reimbursed, the Secretary of War replies 'that the measures adopted by a State for its defence, must be considered as its own measures ; and the expenses attending them are chargeable to the State, and not to the United States.'

"When the people of this Commonwealth call to mind, that since the adoption of the federal constitution \$30,000,000 have been paid into the treasury of the United States from this State ; when they reflect that \$300,000 are now to be collected, as a direct tax, that of \$11,660,000 already appropriated for this year, they must pay 1,265,000, and that the proportion of this State of the 50,000,000 to be raised in 1815, will exceed \$5,000,000, they cannot learn, without indignation, that no part of these sums are intended to be applied to defray expenses incurred by them, in protecting themselves against invasion, except when the militia have been called for by an officer of the United States' regular army, and the expense incurred under his direction."

The general orders of the Governor of Massachusetts, of September 6th, 1814, as well as that of July 18th, in the same year, and those issued July 3d, 1812, directing the *whole* of the militia in the State to be in readiness to *repel invasion*, when it had actually taken place, or when immediate danger threatened ; and requiring the officers not only to inspect their respective regiments, Brigades and Divisions ; but to march with such portion of men under their command as the case required ; were proof of good judgment, a regard

for the rights of the people, and a disposition to provide for the public welfare of the Commonwealth, so far as the Constitution of the State or Union gave him authority. No doubt, great expenses were prevented by the system which was adopted by the Governor, and the rights of the militia preserved inviolate. Adjutant General Brooks, under whose immediate direction the orders were issued, and who was highly esteemed by the Commander in Chief, both for his bravery and prudence, probably suggested the details ; but the principles which were adopted, and which governed in the measures of defence, must have been approved by the Governor himself.

A distinction was made, at a subsequent period, between the services rendered by the militia in the counties of Plymouth, Bristol, and Barnstable, and belonging to the fifth Division, under Major General Goodwin, and those performed by the men in other Divisions. It was said, that the services of the former were more patriotic, having been entirely voluntary ; and therefore justly entitled to remuneration. But there was no just foundation for this distinction. In all places, the militia turned out voluntarily and readily ; but, strictly speaking, not without orders from the Commander in Chief ; for all detachments of the militia were made by authority, emanating, originally, from his orders of July 3d, 1812, of July 18, and Sept. 6, 1814. The Major General of the fifth Division referred, in several of his orders for calling out the militia, to those of the Governor before issued, directing all the higher officers of the militia to repel attacks and protect the inhabitants. He also observes, in a public letter of February 1817, that

the Commander in Chief was pleased to devolve on him the responsibility of the care and management of the Division, in case of invasion or danger.

The militia of the fifth Division were called out during the months of August and September, for the defence of several towns within its limits ; as New Bedford, Fair Haven, Wareham, Falmouth, Barnstable, Chatham, Duxbury, Plymouth, and Scituate : and they obeyed the call with promptitude and cheerfulness. But the calls on the militia were equally frequent in the vicinity of Boston ; and of Portland, Bath, and Wiscasset, in Maine. There was a great amount of shipping in these ports, which, probably, induced the enemy to invade these places rather than some others equally accessible. At Wiscasset, there was a large number of the militia assembled for several weeks, taken from Generals Sewall's and King's Divisions. Nearly the same number were ordered out, at Bath and Phippsburgh, on Kennebec river. At Belfast, Thomaston, Camden, Cushing and Bristol, detachments were also called out for the defence of the inhabitants.

Except at Eastport and Castine, which they took and retained the possession of, the enemy landed at a very few places, though his ships were hovering on the coast for some time. For the militia were in readiness to repel his attacks ; and seasonably repaired to such towns as were in danger, to prevent a landing. In all the large towns in the State, which were accessible to the British ships of war, the militia collected, as promptly ordered by their officers ; and thus prevented any invasion which might have been meditated.

Governor Jones of Rhode Island proffered the service of the militia in that State, to Massachusetts, if a formidable attack should be made on the capital, as was seriously apprehended in August and September, but their assistance was not required. This patriotic act was duly appreciated, however, by Governor Strong ; who, in return, gave assurances of a willingness to aid in the protection and defence of Rhode Island.

## CHAPTER XIII.

Convention at Hartford.....Result of the meeting.....Approved by the Legislature of Massachusetts.....Extracts from Governor's Message....State Rights.....Mr. Gore's speech in Congress respecting the Militia.

Before the General Court adjourned in October, twelve eminent citizens of Massachusetts were elected to attend a Convention of Delegates or Committees from the New England States; to consult for the welfare of that part of the country, in the critical and exposed situation, in which it was placed by the war. The Convention was holden at Hartford, in the State of Connecticut, on the 15th of December, 1814. Besides those from Massachusetts, delegates were appointed to attend, by Connecticut and Rhode Island; and several counties in New Hampshire were represented, but the Legislature of that State declined choosing a Committee for that purpose.

This Convention was a subject of much discussion, at the time, as well as for many years after. A large majority of the citizens of Massachusetts approved of the measure; for they not only believed it perfectly proper, that intelligent men, in whom they had confidence, should meet to consult on measures for the welfare and prosperity of the State; but they expected that some remedy for

their grievances would be devised by the Convention. Some considered the plan inexpedient, and not as promising any permanent relief; and the friends of the national administration pretended to see in it the commencement of an opposition to the general government, which would end in the separation of the Eastern States from the federal Union.\*

As far as the professions of honorable men may be considered sincere; as far as their votes and proceedings afford evidence of their designs; or as their public services and popularity, for many years, could testify to their patriotism—so far the conduct of those who constituted the Convention at Hartford might be approved or justified. It is not to be supposed, without proof, that their object was treason or disunion; and their proceedings unite, with their declarations and the sentiments entertained by those who appointed them, to shew, that they neither purposed nor meditated any other means of defence, than such as were perfectly justifiable, pacific, and constitutional.

The Convention separated early in January, and the delegates from Massachusetts made a report of their doings, to the General Court, which was in session a few days after. The proceedings of the Convention were considered as very moderate and proper, by a great majority of the Legislature, by whom a vote of approbation and thanks was passed to those members, who were citizens of the State.

\* The language of the people, generally, on the adoption of the resolutions for a Convention, and for other measures of relief, was, "that the Legislature had performed its duty with firmness; and that if other States would discharge their duty, also, a speedy termination of the war, renewed prosperity, and a lasting Union, would be the happy consequences."

The measures recommended by the Convention were “that an application be made to Congress for their consent to an arrangement, by which the several States, represented in the Convention, may separately, or in concert, assume the defence of their territory, at the national expense”—and “that certain amendments to the federal Constitution should be proposed to the States for their consent and adoption.” Neither of these propositions could justly be considered as tending to disunion, or to a forcible opposition to the measures of the general government. A collection of men like those who convened at Hartford, have a right to suggest and recommend alterations in the Constitution; though no such alterations could be made without the consent of Congress and two thirds of the States in the Union. The proposition was indicative of the moderation and wisdom of the Convention. Whether the alterations proposed would have been for the greatest permanent good of the nation, was quite another question. One was that Congress should not have power to make war unless *two thirds* of the members of both branches should approve and consent. Other amendments to the Constitution proposed were, that no embargo act should be passed for more than two months—that no law suspending commercial intercourse with foreign nations should be enacted unless two thirds of the members of Congress were in favor of it—that no one should be eligible for President of the United States, a second time; and that the representation in Congress should be according to the free population of the States. It was also advised that a request be made to Congress for aid to defend the State, when exposed to invasion in

consequence of a war declared by the government, which also had the control of all the revenue of the nation. This, certainly, was evidence neither of a desire to destroy the union of the States, nor of a determination to oppose the national rulers, in the exercise of any constitutional power. And it is remarkable, that, although this proposition was said by some of the friends of the administration to be unreasonable and proof of a desire to embarrass the government, yet Congress passed an act, in February 1815, soon after the proceedings of the Convention at Hartford were published, providing for the defence of the separate States, at the expense of the national government. By that act, the President was authorized to receive into the service of the United States any corps which might be raised, organized and officered by the authority of any State; which corps, when received into the service of the United States should be subject to the rules and articles of war, and *employed in the State raising the same, or in an adjoining State, and not elsewhere, except by consent of the Executive of the State raising the same.*

In the month of December, while the British were in possession of Castine, a request was made to the Governor, by the Secretary of War, to call out 5000 of the militia of Massachusetts, for the purpose of retaking that place. The Governor thought the attempt would be a desperate one; and replied, that, without the co-operation of a large naval force, the effort must be ineffectual, and attended, probably, with the loss of the lives of many citizens. A request was also made by the administration at the same time, for procuring aid from the State, to meet the expenses of the war—But the Governor answered, that the expenses of the

State were very great, inasmuch as it was obliged to provide for its own defence, and that it had no funds at command.

The winter of 1814, 1815 was a period of great anxiety and embarrassment. There was, indeed, no immediate danger from the enemy; but the long suspension of navigation and commerce had impoverished the people; and a war of nearly three years had subjected them to many privations and sufferings. The necessary articles of living were to be obtained only at a very high price; and the prospects of peace, which brings so many blessings, was faint and indistinct. But the patriotism and moderation of the citizens did not forsake them. With all their gloomy apprehensions, they had some hope of better times; and though they believed there were some sinister and party views in the disastrous policy which had been pursued, they were unwilling to believe that the national rulers would designedly depress any part of the country. It was very evident that the national administration was much embarrassed by the state of public affairs: The war was unpopular, the expenses attending it had been already very great; and it was difficult to obtain loans sufficient for the pay and support of the army. There was no hope of securing the objects, for which war had been declared; and several members of the cabinet resigned their places in disgust, or from want of harmony with one another. A change of ministers was called for, as it was believed other citizens might be selected to advise the President, more disposed to peace, and more able to conduct the war, if it should be necessary to continue it.\*

\* Mr. *King* of New York, Mr *Cherds* of S. Carolina and Gen. *Brooks* of Massachusetts were most generally named.

As the Legislature of Massachusetts had an extra session in October, 1814, when all measures had been adopted for the protection of the State and the quiet of the people, which were considered practicable and just, there was little to be devised with reference to the war. The season was, in some measure, a protection to the people on the sea coast; and the Executive had been vested with sufficient authority to prepare for the continued defence and safety of the State. But the Governor spoke of the powers of the national government, which at that time were subjects of frequent and interesting discussion. Some of his sentiments thereon, as expressed in his message to the General Court, January, 1815, are therefore here presented.

“We have heard it observed,” he said, “that the State Legislatures have no right to express their opinions concerning the measures of the national government. But this doctrine is repugnant to the first principles of liberty; and the remark could not have been made by any one who had well considered the organization of our government, or the arguments used by the advocates of the federal constitution, when that system was adopted. The government of the United States is founded on the State governments, and must be supported by them; the Legislatures of the several States either elect the members of the executive and legislative branches of the national government, or prescribe the manner of their election. It would then be strange indeed, if they were denied a right, which the meanest citizen of every State enjoys. In the arrangement of the different powers, the State governments are, to many pur-

poses, interposed between the government of the United States and the people. If the latter think themselves oppressed, they will complain to their immediate representatives ; and the remonstrance of a State Legislature, on their behalf, will not often be slighted, by a wise and just administration.

“ The powers of the United States government are limited by the Constitution, which points out the extent of those powers, and the manner in which they are to be exercised. The Constitution, however, will be of little value, unless it is religiously observed. If at any time the national administration should disregard its authority, either by violating its express provisions, or by the assumption of powers not delegated to it, its commands would be unjust, and it would be chargeable with a dangerous abuse of confidence. The State Legislatures are the guardians, not only of individuals, but of the sovereignty of their respective States ; and while they are bound to support the general government in the exercise of its constitutional powers, it is their duty to protect the rights of the States and of their constituents ; and to guard the Constitution itself, as well against silent and slow attacks, as against more open and daring violations. The security thus afforded to the people would be lost, if the State Legislature were to be implicitly devoted to the views of the national government, or were deprived of their right to inquire into its measures.”

The subject of State Rights, generally, and of the constitutional power of the federal government over the militia, is so very important, that it may be proper to refer to the sentiments of a distinguished Statesman of Massachusetts, which were

expressed, at this period, in relation to it. They were delivered by Governor Gore, in the Senate of the United States, in January 1815, who was then a member of that Body.

“A question has sometimes been suggested, whether the Governor of a State has a right to judge, if the requisition for the militia be within the provisions of the Constitution. A little reflection on the nature of the government of the United States, and of a State, and of the relation in which the Supreme Executive of the latter stands to the United States, and to the citizens of his particular State, will show that he is obliged to examine, if the case for which the requisition is made be within the provisions of the Constitution; and if the purposes for which it is declared are clearly not within the powers delegated by that instrument, to withhold a compliance. The government of the United States can exercise no powers not granted by the Constitution; and so far as this government can support such as it claims on this charter, it is sovereign, and has no other controul than its own discretion. The government of each State is equally sovereign with respect to every power of an independent State, which it has not delegated to the United States, or is not prohibited to the several States by the Constitution. It is the duty of the government of each State to preserve unimpaired every right and authority, retained by the State. Whether the militia, the peculiar force of the several States, and that which is to protect and defend every right and power they possess, is called forth by the United States according to the provisions which they made, in delegating to this government its powers, must be a

question between two sovereign and independent governments ; and on which there is no tribunal authorized to judge between them. And if the Governors, who are the Commanders in Chief of the militia of the several States, should surrender this force to the United States, in a case not authorized by the Constitution, they would betray the trust confided to them by the people of their respective States. They must, therefore, examine the case, when called upon, and decide according as their duty, prescribed by the Constitution of the United States and that of their particular State, shall demand.

“ The militia is a force which belongs exclusively to the several States ; and is so recognized by the Constitution of the United States. The government of the United States is a government of limited authority, and has no other powers than those granted by the Constitution. A power to call out the militia to provide for the common defence, or to *protect* against invasion, is no where granted to the United States, in express terms. All the authority of the United States over the militia is to call them forth to *repel* invasion, to execute the laws, and to suppress insurrection. The United States are bound to provide for the common defence. To *repel invasion* is included in this duty ; and as invasion may be sudden, even in time of peace, and before the United States can bring their forces to meet an unexpected attack, the militia of the several States are granted to the United States from the necessity of the case, that they may provide for the common defence, *in such a particular situation.*”\*

\* Mr. Gore quotes Mr. Madison, as saying, “ that the pow-

When the Legislature passed a resolution, approving of the proceedings of the Convention at Hartford, they voted to send agents to the federal government, to represent the exposed situation of Massachusetts, and the feelings of anxiety and apprehension, which agitated the people; the great expenses to which the State had already been subjected; and to solicit of the administration of Congress the means of future protection, as well as a reimbursement, in part, of what the Commonwealth had then advanced for the defence of the country. This was in pursuance of the recommendation of the Convention. The measure was also necessary to tranquilize the public mind. For if the war was to be prosecuted another season, and the general government afforded no means of defence to the State, the great body of the citizens would be liable to be called into service, as militia, to save the Commonwealth from depredation and plunder. Three distinguished and patriotic citizens were accordingly appointed to proceed to the seat of the general government, for this purpose. But the intelligence of peace was received by the administration, about the time the agents from Massachusetts reached the city of Washington.

A vote of thanks was passed, by both branches of the Legislature of Massachusetts, during this

ers of the federal government are no farther valid, than they are plainly authorised by the Constitution, and that in case of the exercise of other powers not granted by that compact, the States have a right and are in duty bound to interfere—nor can it be granted, that a power to act on a case when it shall occur, includes a power over all the means that may tend to *prevent* the occurrence of the case.”

session, to General Andrew Jackson, of Tennessee, and to his brave associates, for the defence of New Orleans, when attacked by a large British force on the eighth of January. This was considered a very brilliant affair, and commanded the plaudits of all parts of the country. General Jackson's force was small, and consisted chiefly of militia. His conduct on the occasion was highly commended, as well for the good judgment as for the bravery it displayed. Governor Brooks probably referred particularly to this event, when he observed in one of his public speeches, with respect to the war, "that it terminated gloriously."

The intelligence of peace, which was received in Boston about the middle of February, gave great joy to both political parties, and to all classes of people. It went far to allay the bitter disputes which had arisen in consequence of the war, and of the policy which led to it. The particular friends of the national administration rejoiced at the return of peace, though it had failed to obtain from Great Britain the objects for which war had been, ostensibly, waged ;\* and which, it had been said, with more of a spirit of boasting than of wisdom, must be secured before it would be terminated. But the state of Europe, as well as of the United States, made it the policy of the federal government to solicit peace. The debt of the United States had much increased, (in about the sum of \$150,000,000) and the revenue being

\* Mr. King said in the Senate of the United States, when the treaty of Ghent was under discussion, that though it was preferable to a continuance of the war, it was less favourable than that made by Pinckney and Monroe in 1808, which President Jefferson rejected, without even presenting it to the Senate.

greatly diminished the credit of the nation, was consequently, very low. The people generally called earnestly for peace ; and in a free and popular government the rulers cannot stand long in opposition to public opinion. Peace to the great majority of the citizens, will always be preferred to war, unless the terms are very humiliating and inglorious, or involve a relinquishment of the rights and interests of the nation. The merchants were happy in having an opportunity to resume their enterprises, and their intercourse with foreign countries. This, indeed, they were not able to do to the extent of former periods. The commercial restrictions had been so severe, so general, and so long continued, that navigation received a shock from which it did not soon recover. The mechanics and farmers received encouragement for their labor, and were again well rewarded for their products and their industry.

But however inexpedient the war might have been, or however unwiseley conducted by the administration, the American character for patriotism and bravery, lost nothing by this calamitous event. Though it continued only two years and an half, the land and naval forces of the United States gained great credit for their courage and heroism. In the battles on the land, perhaps, the American troops had not altogether so much to boast ; and yet in many instances they displayed great bravery and military skill. But the naval commanders gathered laurels in every clime. They often encountered ships of the enemy larger than their own ; and were almost invariably victorious. The British never before met so resolute and brave a foe on the ocean. The courage and prowess exhibited by

the American navy, both in the war of 1812, and that for liberty and independence, have given to it such a high character, that no foreign nation will, probably, hastily engage in a contest with the United States. Much credit might also be claimed for the militia of Massachusetts, who marched to places of danger, whenever ordered by their officers, without hesitation or delay. In the course of the war, the whole number called out, in Massachusetts, was estimated at 45,000 ; but most of them were in service only for a few days or weeks: and far the greater portion of them in the months of July, August, September and October 1814. The expense incurred by the Commonwealth for protection against the enemy, during the war, by its militia and military stores amounted to \$800,000.

When the news of peace arrived, the General Court of Massachusetts was in session in Boston ; and both branches joined in celebrating the joyful event, by attending public religious service, in which the Chaplains of the Legislature were requested to render thanks to Almighty God for the restoration of peace ; by a procession in which they were joined by all classes of the citizens of that ancient town ; and by a sumptuous feast afterwards in Faneuil Hall.\*

The war of 1812 proved the occasion of increasing the manufacture of woollen and cotton cloths in Massachusetts. During the war, the non-intercourse and the embargo, these goods bore a very high price ; and many of the citizens were induced to engage in the manufacture of them within the

\* It has been pleasantly said, that the citizens of Boston never have a great meeting, but they connect it with a good dinner.

State. At the session of the General Court, January 1815, twenty four companies were incorporated for the manufacture of woollen or cotton cloths ; but chiefly the latter. In some instances, this was an unfortunate enterprise ; but the general government afforded all the encouragement it could consistently give to domestic manufactures ; and in the following year the business greatly increased.

## CHAPTER XIV.

Governor Strong re-chosen in 1815.....Extracts from his speech to the Legislature...Answer of the House of Representatives...Their opinion of the authority of the State.....Laws passed in 1816.....Message of the Governor in January 1816.....He declines being a candidate for re-election. General Brooks chosen Governor.....Sketch of his character.....Extracts from his first public speech to the Legislature, June, 1816.....His views of the Constitution approved.....Choice of Electors of President and Vice President of the United States.....Separation of Maine proposed.....Agents appointed to present claims to Congress.

Governor Strong expressed an ardent wish, this year, to retire from the public office he had so long held. He was now nearly seventy years of age ; and he had never been very ambitious of political life. After much solicitation from his particular friends, however, he consented once more to be a candidate for the office of Chief Magistrate of the Commonwealth, and he was re-elected Governor for 1815, by a large majority of votes.\* His election this year, as well as for the three years of the war, was a sure indication of the wisdom of his public course during that very critical period, in the opinion of the great body of the people. His

\* The votes of the democratic party were given for Mr. Dexter ; but it was said he did not consent to be a candidate in opposition to Governor Strong.

policy and measures were assailed, indeed, by a portion of the people, with severity and bitterness. The conduct, which was most condemned, was his withholding the militia, on a requisition for them, by the military officer of the United States' army, at a time when there was no invasion of the State, and none imminently threatening, and who proposed, also, to march part of them out of the State, and to station others in the forts of the United States; a service, which it was believed the militia were not bound to perform, and to compel them to do which would be a violation of their constitutional rights.

In thus declining to place the militia under the controul of an officer of the United States, the Governor assumed the right, as Chief Magistrate of the State, to judge of the exigency of the case, and to construe the Constitution for himself. As there was no invasion, in June, 1812, when the militia were called for, and no immediate danger of invasion of the State, he did not consider himself bound by the Constitution to order them out on the requisition of that officer. Admitting that the Governor did not intend to embarrass the national administration in prosecuting the war, still it was contended by some eminent Statesmen, that he was not correct in his opinion respecting the militia. But the doctrine advanced by Governor Strong, at that period, has been more recently avowed and contemplated by the Legislatures of other States. By those of Virginia, South Carolina, and Georgia, the right has been asserted of deciding what is the meaning and intent of the Constitution.

That the doctrine advanced by Governor

Strong, in 1812 and 1814, while the war continued, was agreeable to his deliberate and settled opinion, is evident from the following remarks in his speech to the General Court in June, 1815, after the war had terminated. "In the course of the war, the government of this State endeavored to conform its conduct to the principles of the Constitution, and faithfully to execute the duties enjoined by that instrument. Whatever complaints have been made of the construction we gave it, whether relating to the command of the militia, or the right of the national government to force the citizens into the ranks of the regular army, I think the experience and reflection of future times will confirm the correctness of our expositions; and I presume, that the members of the present general government would have adopted the same construction, at any period during the administration of the two first Presidents of the United States. Severe calamities are always incident to a state of war; but that state is still more to be deprecated, if it shall be understood to furnish the government with an excuse for adopting measures subversive both of civil and political liberty."

In their answer to the Speech of the Governor, the House of Representatives remark, "We presume it will not be denied, that, in the measures taken by the government of this Commonwealth during the late war, it was intended faithfully to execute the duties enjoined by the Constitution, and to be governed by its principles, according to a sound construction thereof. The course adopted has been attended by the most favourable results, and by the saving of great and useless expenses to the nation. It has also received the decided ap-

probation of the people, as expressed in their elections ; and we may cheerfully leave to the impartial judgment of future times to decide, whether the exposition of the provisions and principles of the Constitution, given by your Excellency and sanctioned by the other departments of this government, is not the most consistent with the purposes of that instrument, as well as the most favourable to civil liberty.”\*

\* The course pursued by the Executive of the United States in 1793, when the State of Georgia was expecting an attack from the Cherokee Indians, and applied to the general government for aid, may serve to exhibit the views which the administration had respecting its power over the militia. The Cherokees had manifested a hostile disposition towards the inhabitants of Georgia, and a formidable attack was apprehended from them. The Governor stated the dangerous and exposed condition of the frontiers of the State to the federal rulers, and requested protection. There were then very few or no regular troops in that part of the Union, and the President authorized the Governor to call out the militia for the defence and safety of the State, with a promise of payment for the service by the national government. The Governor was cautioned against all offensive operations, but the propriety of being prepared to act on the defensive, if the State should be invaded, was suggested to him. He was informed, by direction of the President, “that, in case of invasion, or imminent danger of invasion *only*, the calling out of the militia could be considered proper, on constitutional ground ;” and that “he was to judge himself of the degree of danger and of its duration, and would, no doubt, proportion the means of defence to the exigency.” The Secretary of War, in his letter to the Governor of Georgia, uses this language also—“the men must be called out in conformity to the militia laws.” The case of actual invasion of Georgia must be referred to the provisions of the Constitution ;” but “the proceeding with efficacy *in future* requires, that no unnecessary expense should be incurred in the meantime.” The Governor of South Carolina was also requested, by the President, “that, if Georgia should be invaded, and the Governor of Georgia wish his aid for defence, to march such

The Governor, in his Speech to the Legislature, and each branch, in its answer, expressed the opinion, that the professed objects of the war had not been obtained ; but still, that peace on the conditions stipulated was far preferable to war ; and therefore that the treaty ought to be acceptable to the people.\*

The debt of the State, due before the war, amounted to \$550,000 ; and the expenses of the war had added \$800,000. The Commonwealth, however, had some funds at command, and a large quantity of wild lands in Maine. The Governor recommended economy in the public expenditures, and attention to the credit of the State. A law was passed, providing for the appointment of Commissioners of wrecks ; for it was found that much property was lost, when vessels were cast away upon the coasts, for want of attention and care ; and also an act regulating the inspection of beef and pork, large quantities of which were exported from Massachusetts ; and it was important, for the honour of the State, as well as for the permanent benefit of those concerned in the business, that the articles should be faithfully inspected.

part of the militia of his State as he might judge necessary, and the case require for assistance." Here seems to be an admission, that the Governor of the State was to decide upon the question of the *necessity* of the service, and also, that no expenses were to be incurred, nor militia ordered into service, except in case of actual invasion. And by the law of Congress in 1792, providing for calling out the militia to suppress insurrection, &c. the President was authorised to issue his orders for them simply " *to repel* invasion, and to give his orders to an officer of the militia."

\* See the Appendix for the answer of the Senate and of the House of Representatives.

In the following remarks of Governor Strong, in his Message to the General Court, January 1816, the sentiments of wisdom and experience will be readily perceived. "Within the last three years, more than one hundred acts have been passed to incorporate persons for the purpose of carrying on manufactures of different kinds; in some of these, children are employed at an early age, before they have received the education which is usual in our English schools: And it may be expedient for the Legislature to require that effectual measures be taken for the instruction of such children. The careful education of youth is an object of the highest importance, as well to the government, as to every individual: A due regard to it is the most effectual method to prevent the commission of crimes, and to uphold order and just authority. At this period, when they are most susceptible of virtuous impressions, if they are left without cultivation or restraint, they will entail upon their country an endless series of mischiefs. But if their minds are enlightened by education, as they advance in life they will duly understand and estimate their rights; they will be able to judge of the true characters of men, and to distinguish between the honest zeal of patriotism and the intemperate heat of party spirit; and will acquire such information as will enable them to exercise the rights and perform the duties of citizens in a free government, with steadiness and discretion.

"From the ease with which new regulations may be introduced, perhaps, we are in danger of treating the ancient forms and usages of the State with too little respect. The people, generally, have an attachment to laws and customs which have long

been established, and conform to them more from habitual regard, than through fear of punishment. Unnecessary additions to their number, or frequent alterations, would diminish their authority, and lay a foundation for a multitude of litigious suits. While, therefore, we encourage a spirit of genuine improvement, let us do justice to the usages, which we and our fathers have approved, and guard against a temper of unceasing innovation—Let us cherish those principles of government and those systems of education, which have been derived to us from our ancestors; and especially, the institutions, which have a tendency to preserve in the minds of the people that reverence for the Deity, without which neither public nor private virtue can subsist nor the welfare of a community be secured."

In this communication of the Governor, he gave public notice that he should decline a re-election. The people, generally, regretted this determination; for they had full proof of his prudent judgment, and of his devotion to their best interests. But he was now, about seventy years old, and he considered it proper to retire from the cares of public life.

When Governor Strong retired from the chair of Chief Magistrate of the Commonwealth, General John Brooks was chosen to succeed him. General Brooks was respectable for talents, and was remarkably conciliating and popular in his manners. But on great occasions, he was very decided and independent in his conduct. He did not, usually, form an opinion on subjects of a public nature, without much inquiry and deliberation: But when he had taken proper time for consideration, he was resolute to pursue the course dictated by the con-

viction of his own mind. He belonged to the party, then usually called federal; and in this, he believed he was adhering to the political principles of Washington, for whose character as a statesman and patriot, as well as a hero, he had the highest respect and admiration. Many important offices, both civil and military had been filled by Governor Brooks, with great fidelity and to the entire satisfaction of his fellow citizens. During the war of the revolution, he commanded a regiment raised in Massachusetts for the continental service. He was active and brave, and particularly excelled as a disciplinarian. On several occasions, in the war of the revolution, he displayed both the courage and the intelligence, which are necessary to give one a high reputation as a military character. After the war, he was some time Major General of the militia, and Marshall for the District of Massachusetts, under the federal government. He was a member of the State Convention for adopting the Constitution of the United States; a Representative and Senator in the Legislature of the State; and a member of the Supreme Executive Council, during the administration of Governor Strong. In the critical period of the war of 1812—15, he was also Adjutant General of the militia of the State, and in his judgment and efficiency the Governor had the most perfect confidence. When he was first elected chief Magistrate, in 1816, he had a powerful rival in *Mr. Dexter*, who was also a candidate for that office. The election of General Brooks was proof, therefore, of his great popularity. These two distinguished citizens did not differ, materially, in their political principles or views. They had indeed, long been of the same political sentiments; and

differed only, if they differed at all, in their opinion, as to the duty of voluntarily aiding and supporting the national administration in the war, then just terminated. Mr. Dexter seemed to be of the opinion, that the States were bound to support the administration in the war, because it had a right to make war, without inquiring whether the measure were just and expedient, or not, and that it must take the responsibility both of declaring and of conducting it—But General Brooks belonged to that class of citizens, who believed the Governor and Legislature of a State had a right to control the militia, except in the cases specified in the Constitution; and that the State rulers must also judge of the exigency of the occasion; as otherwise there was no check for the exercise of the most arbitrary and oppressive power, and no security for the rights of the citizens, who were liable to be enrolled and called out as militia.

In his speech to the Legislature, when Governor Brooks entered on the duties of Chief Magistrate, he observed—"The institution of civil government is essential to human happiness: Without government, existence would cease to be a blessing. But as we can discern no ground in nature for the assumption of a right in one individual to control the actions of another, we conclude that all men are originally equal; and therefore that legitimate government must be derived from the will of the people. However little the existing governments of the world may correspond with these positions, we have the satisfaction to reflect that Massachusetts and her sister States, separately and conjointly, have realized and are now enjoying the right of self government.

“ The people of this State have been favoured by an indulgent Providence with an opportunity of framing for themselves a constitution of government upon the broad basis of equal rights: and we may be permitted to exult in the reflection, that the great questions involved in forming a system of rules, which must last indefinitely for ages, were discussed with a degree of intelligence, and a spirit of candour and mutual concession, which mark the period of an age of wisdom and virtue. Power was imparted to public agents with caution, and in every practicable instance limited with precision. Such concessions, however, were made in favour of delegated authority, as promised to insure tranquillity, and a due execution of the laws. It is obviously one of the leading objects of our Constitution, effectually to counteract the tendency of office to accumulate power, and so guard against an abuse of delegated trust. Principles are immutable; and our system is so framed as to leave as little as possible to construction. And it is our happiness, to have our lot cast under a system of government formed upon these principles. This system, being the ordinance of the people, and enacted by them in the exercise of their natural and undervived right of self controul, justly and imperatively claims to be the supreme law of the land

“ It is foreign to my intention, as it would be to the occasion, to attempt an analysis of the Constitution. But such provisions of that instrument, as are vitally important to the public happiness, cannot be too frequently brought into view and impressed upon the public mind. A sense of the value of first principles ought to be carefully cul-

tivated. *Avarice and ambition wage eternal war with equal rights and public liberty.* This was the doctrine of our fathers, founded in the nature of man ; and it is the doctrine of the Constitution illustrated by the unequivocal testimony of experience. Virtue is the great conservative of republics ; and coincident with other profound views developed in the Constitution, and as auxiliary to their attainment, that instrument assigns an elevated rank to moral and religious principles. The happiness of the people, the good order and preservation of civil government are declared essentially to depend on piety, religion, and morality ; and wisdom and knowledge as well as virtue are considered necessary for the preservation of the rights and liberties of the people.

“ The Constitution of the United States is without precedent and without parallel. In its composition and form, it partakes of the federative character ; but from the extent of its fiscal, executive and other powers, possesses the essential prerogatives of an integral government. The confederation was a government of courtesy. The national interests demanded one of efficiency and coercion. The just mean between a too limited and an indefinite grant of power was assiduously sought, and the result cheerfully submitted to the test of experience. The national compact, like the constitutions of the individual States, is an emanation from the same pure and legitimate source ; and the spirit of freedom which pervades and animates the State constitutions, is carried into the national pact, and all powers not expressly given, are declared to be retained by the people or the States. This distinct reservation of rights,

besides being a condition, without the introduction of which, the constitution would never have been adopted, forms a check upon the powers vested in the general government. The sovereignty of each State, though reduced from its original amplitude, has been viewed by the most illustrious Statesmen of our country, as forming a most safe and effectual counterpoise to that mass of power inherent in the Constitution of the United States, and which is indispensably necessary for the general welfare. Whatever apprehensions may have been entertained at any former period, of the operations of the national government, the people of this Commonwealth have but one sentiment, as to its continuance. *Massachusetts will be among the last to impair the Union of the States, as she would be the last, silently, to ABANDON HER OWN JUST RIGHTS.*"

He referred to Manufactures and to the Tariff for their encouragement, then recently passed by Congress, in the following manner. "The distress which some of our manufacturing citizens have experienced from the changes, which have recently taken place both in Europe and in America, are undoubtedly great, and excite our sympathy. In adjusting their new tariff of duties, Congress may have done as much for their relief as a *due regard to justice and the good of the community at large would allow.*"

All parties approved of the Speech of Governor Brooks ; and acknowledged that his principles and views were truly republican. When he was first proposed as a candidate for Chief Magistrate, an apprehension was expressed, by some eminent civilians, that he was not perfectly qualified for that

high station, as he had not received a legal education. But his public papers soon convinced every one, that he was well acquainted with the principles of the Constitution, and fully competent to the discharge of his political and public duties. He was cool, judicious and discriminating. Hancock and Adams were not educated lawyers, though they had been much in civil life when elected Chief Magistrates.

The Electors appointed by the Legislature in November of this year were of the federal party, and all gave their votes for Rufus King of New York for President, and for John E. Howard of Maryland for Vice President. But James Monroe of Virginia was elected by a very large majority.

During this year, petitions were presented to the General Court, from a great number of towns in the District of Maine, for the separation of that part of Massachusetts, and for forming it into an independent State. The petitions were so numerous that the Legislature considered it proper to submit the question to the citizens of that part of the Commonwealth; and to provide for a Convention to be holden at Brunswick, to examine the votes given in. The resolve for this purpose, required more than a bare majority, viz. the ratio of five to four, or 5 9ths. The votes given in favour of a separation were not equal to that ratio. The Convention, however, by a strange calculation, decided in favour of the separation. But a remonstrance was made against the propriety of this decision of the Convention; and the General Court, in November, expressed an opinion, that the vote did not authorize a separation, according

to the terms of the former resolve on the subject. There was a bare majority of those who voted in favour of a separation. A few years after, the vote was such as to induce the Legislature of Massachusetts to sanction the measure.

At the session of the General Court in November and December, all the public business of immediate importance was transacted ; and no meeting of the Legislature was holden in January and February following. Early in 1817, in pursuance of authority previously given by the Legislature, the Governor appointed agents to present the claims of Massachusetts on the United States, for expenses incurred in calling the militia into service for the defence of the country, during the war of 1812. The amount exceeded \$800,000. Objections were made, on the part of the national administration, to the allowance of the claim; not because the service was unnecessary, or the expenses extravagant ; but because the militia were not put under the controul and command of a military officer of the United States. The reasons which operated with the Executive of Massachusetts against a compliance with the requisitions for the militia in all cases, have already been fully stated ; and this non-compliance was the ground on which the general government refused to reimburse the sums expended by Massachusetts in defence of the State. The merits of the claim were stated and urged with great ability by the agents, Messrs. Lloyd and Sumner. They stated the difficulties which arose in ordering out the militia, at the time and in the manner proposed by the United States' officer ; the constitutional scruples of the Governor, and the remonstrances of the militia

themselves. It was also shown, by the agents, that the militia of the State were equipped and kept in a state of constant preparation, and were called out when there was an invasion or alarm; and that the service they rendered was not only such as could justly be required of militia, but was prompt and efficient in defence of the State, and even in protecting the property of the United States which was within its territory.

## CHAPTER XV.

Governor Brooks re-elected in 1817.....His speech to the Legislature, at the commencement of the session.....Visit of the President of the United States to Massachusetts.....His reception by the Governor and by the people.....Attempts to settle the eastern boundary line.....Speech of Governor Brooks in June 1818, on his re-election.....His attention to the militia and to the State Penitentiary.....The separation of Maine.....Number of inhabitants.....Governor's advice to maintain the credit of the Commonwealth.....To encourage industry and economy.

Governor Brooks was re-elected in 1817, by a vote of eight thousand majority. General Dearborn was the rival candidate. It was not generally expected that there would be any opposition to Governor Brooks. For the democratic party had approved of his political principles, as expressed in his public speeches ; and all acknowledged that he was liberal and conciliating in his conduct. The following extracts from his speech to the General Court, in June 1817, will show how justly he appreciated the political and social blessings enjoyed by the people, under the excellent Constitution of the State.

“Without extending our views to the general history of man or of governments, the annals of our own country, the migration and settlement, the character and manners, the political and religious

principles, and the literary institutions of our fathers—the rise, progress, and termination of the momentous question between Great Britain and her colonies, now the United States of America, as to the right of parliamentary taxation—the origin, structure and establishment of our system of jurisprudence; open various and prolific sources of instruction to the Legislature, and of proud satisfaction to the American patriot.

“Annual elections and frequent meetings of the Legislature, being designed to perpetuate the principles of a free constitution in their purity and vigor, and to promote in the highest possible degree, the general welfare of the State, it seems highly proper, and auxiliary to these ends, that the attention of the Legislature should be frequently directed to inquiries into the competency of the laws for securing to the people their political and elective rights; and whether they obtain, what the Constitution assures them, “right and justice, without purchase, without denial and without delay.”

“Massachusetts has always been respectable among her sister States. And while she retains the spirit and is governed by the principles of her political, religious and moral institutions; while her schools and seminaries of learning are supported; while science and the useful arts are cherished; her love of justice, and habits of industry and economy are maintained; she must continue to command the respectful consideration of the civilized world.

“The Commonwealth, to the mild and beneficent influence of whose Constitution and laws we are indebted for our civil privileges, the secure enjoyment of the rights of conscience, and whatever is

dear to us in domestic life, claims our first fealty and homage. And I may add, that the people in the several States will most efficaciously perpetuate the system of national government, by preserving the solidity and strength, and by maintaining the erect attitude of the pillars, upon which the vast and lofty superstructure is erected."

In the summer of 1817, Mr. Monroe, the President of the the United States, then recently elected, visited Massachusetts and the other eastern States. The event excited the more attention, probably, because no other President but Washington had made a tour through these States. As Mr. Monroe was one of the administration in the time of the war, there was not any political predilection for him among the majority of the people of Massachusetts. He was received, however, with great public respect and parade; and his visit had the happy effect of producing a mutual regard between him and the citizens of New-England. The attentions and courtesies of Governor Brooks towards the President were honorable to himself, and duly appreciated by Mr. Munroc. This visit of the President led many to express a wish, that the intercourse between the citizens of the southern and eastern States might be more frequent, as it would conduce to a greater political harmony and good fellowship than had existed for several years before.

In 1817 a fresh attempt was made to settle the boundary line between Maine, (then a part of Massachusetts) and New Brunswick. There had been a dispute on this subject even from the peace of 1783; and commissioners were early appointed to adjust it. It was not settled, however; and after

the treaty of Ghent, agents were again appointed to ascertain and fix the boundaries.

The territory in dispute between the United States and the British Government is very large. There is now no question as to the true St. Croix river, which is the place of beginning for the boundary line. It relates to the point where a western or southwestern direction should commence. The decision has been referred to a friendly power in Europe, the King of the Netherlands. He will decide impartially, no doubt, but much will depend on the intelligence and ability of the persons employed by the two governments, to state the case to the royal umpire.

It was agreed by the American and British commissioners, about this time, that Moose Island, on which Eastport is situated, was within the territory of the United States; and it was accordingly surrendered by order of the English government. Being within the limits of Maine, which was then a part of Massachusetts, it was taken possession of by the authority of the State; and an agent on the part of Massachusetts, as well as of the United States, was present at the surrender. The British took the place during the war of 1812, and retained the possession after the peace, on the pretence, that it was within the limits of New Brunswick.

The political opinions and feelings of the majority in an elective government cannot be more correctly represented, generally, than by a reference to the public declarations and views of the individual, whom they have chosen to be the Chief Magistrate of the Commonwealth. There is a propriety, therefore, in quoting a part of Governor Brooks' speech to the General Court, on his re-election in

1818, although large extracts have been before given from his speeches for 1816 and 1817.

Referring to the claim of the Commonwealth on the United States, for expenses incurred in the late war, he observes—"Although the merits of the claim have not been discussed in the national Legislature, yet, considering the nature and magnitude of the object, for which the expenditures were incurred; the danger of menaced invasion at the time when the greatest portion of the expenditures were made, on a maritime frontier of more than 500 miles in extent; the remarkable unanimity of sentiment which prevailed among all classes of people, and the cordiality and zeal with which they united, in raising works of defence against the common enemy; and especially, the liberal and unhesitating manner, in which the resources of the State were employed, as well for the protection of the ports, navy and other property of the United States, as for the immediate defence of its own territory and population; we may confidently presume, that the general merits of the claim will be duly appreciated; and that the enlightened statesmen, to whom are confided the destinies of our nation, will authorize a reimbursement.\*

\* The chief objection of the national administration (which has already been noticed) to a reimbursement of the sums expended by Massachusetts, for defence in the war of 1812, was, that the Executive of the State declined calling forth the militia, when requested by an officer of the United States and subjecting them wholly to his disposal—For the Governor could be charged with no more than this. But when there was actual invasion, or when there was imminent danger of invasion, he called out the militia, as proposed by the officer of the regular army, and in some cases placed them under his command—And when there was no request from such officer, but danger exis-

“ Whatever agency Massachusetts may have had in establishing the national government, or however great her sacrifices or valuable her contributions, in supporting its existence and efficiency, in the spirit of amity and accommodation which produced the compact, we concede that she enjoys an equivalent. And in estimating and enumerating her contributions and various efforts for the public defence, she asks only the same measure of justice and equity, which has been observed, for similar expenditures, towards her sister States.

“ That the Constitution of the United States has been productive of the most beneficial effects, that the blessings resulting from it have transcended the utmost hopes of the sages who formed, and of the States which adopted it, are subjects of high gratulation and joy, and of devout gratitude to that Being, ‘ who rules among the nations of the earth.’ But to insure the continuance of its blessings, the principles upon which it was found-

ed and the people were alarmed, he did also order them into service for the protection of the State. Under similar circumstances and exigencies in other States, the militia were ordered out, when there was no requisition from any national officer, and the expenses reimbursed by the general government. The power attempted to be exercised by an officer of the United States, over the militia was very alarming to all impartial men. The claim to them was, to call them out at any time, and to order them wherever he might choose : Thus assuming authority to decide as to the exigency, and to command the militia precisely as he would regular troops. It was to this claim and this assumption of power, that the Governor and Legislature of Massachusetts objected. The Secretary of War, in 1814, said, “ such military officer was stationed in the State to watch the movements of the enemy, and *when there was a menace of invasion to request the Governor to call out the militia.*” When requested, in such cases, Governor Strong did call them out.

ed, must be maintained in their purity. The early apprehensions of many of its friends, which arose from an imagined imbecility in its structure, have subsided; and the severe trials it has sustained, sufficiently demonstrate its tone and vigour. The proofs of its strength, however, have been *intermingled with admonitions of its tendency to accumulate power by refinement and construction.* And should the time ever arrive, when *the sovereignty of the States shall be merged in the general government, the catastrophe will probably be effected by the extension of constructive prerogatives.* Whatever difficulties may occur in drawing the line between those rights, which have been surrendered to the general government and those which are retained by the several States, it must be remembered, that, on any question of doubtful import, touching the distribution of power, a favourable construction is due to the individual States, under a provision, as sacred as it is explicit and decisive, “that all powers not expressly delegated, are reserved to the States, respectively, and to the people.”

In his instructions to the agents who were appointed to present the claims of Massachusetts on the United States, the Governor urged the equity and justice of the demand with great frankness, zeal, and fidelity. He expressed the same opinions, on this occasion, as he had given before, when a member of the Supreme Executive Council of the State in 1812 and 1814. No one was a more sincere advocate for conformity to legitimate authority than Governor Brooks; and if he had been convinced, that the exigency existed, contemplated by the Constitution, which must re-

ally occur to authorize the demand for the militia, he would have advised and urged to their being put under the control of an officer of the United States ; knowing that the responsibility for the discreet and proper exercise of power would rest on the national government, or the President of the United States ; and not on the Executive of Massachusetts. But he believed that the constitutional exigency did not exist, when the militia were first called for by the United States' officer, nor on some other occasions, when a request was made for them. In 1814, he did advise to placing them under command of the officer of the national government ; and that they were not put under his authority, conditionally, was not that it was opposed by General Brooks. But he well knew, that the service was performed by the militia which was proper for them to render, for the defence of the State ; and that this was at a time when the federal government provided no means of protection against the attacks of the enemy. He was not ambitious of engaging in a controversy with the national rulers, on this point, although it was his decided opinion, "that it was inequitable in the general government to refuse payment." When it was suggested to him that some concession or apology, publicly or officially made, might have influence with the national administration, he declared, "that he could not sincerely, and therefore should not make any." Many others, in his situation, either for the sake of popularity or gain, might have consented to make concessions, contrary to their own convictions of right ; and even to criminate the virtuous and patriotic citizens of the State, for party purposes.

Governor Brooks took a particular interest in the Penitentiary of the State. He approved of the establishment, and believed, that, with judicious regulations, and an energetic, but humane government, it would prove a benefit to the community, by depriving culprits of the power and opportunity of doing mischief, and by effecting, in some instances, the reformation of the offenders. He often visited the prison; and made very minute inquiries of the immediate officers; and he never ceased to urge upon the Legislature the importance of alterations and improvements, with a view to more salutary results; especially, to the criminals, in giving them an opportunity, by solitary confinement, during the night when their labors were suspended, for sober reflections and resolutions of amendment. In this he had to combat the objections of many members of the Legislature, who pretended that the system was a bad one; and that the criminals who had been confined in the prison, departed from it, when the time of their sentence expired, more depraved than they entered it. This was a hasty opinion, not founded in a due consideration of the condition of the culprits, while in the prison. The rooms were so few, that generally, six or eight were confined to one for the night. It was the opinion of the Governor, and in this he was supported by the immediate officers in the Penitentiary, that it would be a great improvement to have a room or cell for each convict, to which he should be confined during the night: and to effect this, an additional building would be necessary. Several years after, it was voted by the General Court, that a new building be erected, to carry into effect the plan of solitary confinement, when the prisoners were not engaged in labor.

During the civil year 1818, various laws were enacted amendatory of former statutes, and relating to the internal affairs of the Commonwealth. One of these was to prevent the waste of timber trees ; one for the more strict regulation of licensed houses ; one against forgery and counterfeiting ; one for the punishment of robbery, manslaughter, and felonious assaults. Acts were also passed for the encouragement of agriculture and manufactures, of trade and navigation ; for regulating the practice of Physic and Surgery within the State ; and for defining the powers and duties of Corporations. These legislative acts were indicative of a spirit of improvement in the people, and of a disposition in the government to afford all legal facilities to advance the interests of society.

Governor Brooks was elected for seven years, successively ; and in all his public conduct he was judicious, conciliatory and magnanimous. Many of the democratic party esteemed and supported him. He was not exclusive in his appointments to public office, nor did his policy and measures give any just occasion for his political opponents to say, that he conducted as the head of a party. The course he pursued had a happy tendency to check party feelings, and to induce the citizens generally, to act more in concert on public business, than they had for several preceding years. If it is necessary to give him a party appellation, it must be that of a uniform federalist during his public, political career ; but no man in the State or nation, whatever might be his professions or his pretensions, was more attached to a republican government, or more readily subscribed to the doctrine, that all civil and political power emanated

from the people. The regulation, the equipment and discipline of the militia, received the particular attention of Governor Brooks. With other intelligent Republicans, he considered the militia the most proper defence of the country; and their efficient organization was with him a matter of pride and solicitude. He reviewed them in all parts of the State in 1817 and 1818; and his presence excited a spirit of laudable emulation. As commander in Chief of the militia, he excelled all who preceded him in the Commonwealth, subsequently to the revolution.

During Governor Brooks' administration, the militia laws were altered, so that those above the age of thirty-five years were exempted from the public trainings; but those under the age of forty-five were required to pay two dollars a year, and to attend the annual meeting in May, for inspection as to their military equipments. They were also permitted to vote for the election of officers. A uniform was required for the militia to be prescribed by the Commander in Chief, on the condition that it be cheap and simple. This regulation had been suggested by the Governor: for he thought it would add to the appearance, and would not much increase the expenses of the militia.

The question of the separation of the District of Maine from Massachusetts was again agitated in 1819; and the members of the General Court engaged to give their assent to the measure, on certain specified conditions, relating to public lands; provided also, that the majority of the citizens in Maine in favour of separation should be fifteen hundred. On giving the votes on this sub-

ject, the majority for forming Maine into a separate State far exceeded the number required ; and in September a Convention of Delegates from the several towns in that part of Massachusetts was holden, when a constitution or frame of government was prepared ; which afterwards received the approbation of the people. Congress having also given its consent, the District of Maine became a separate independent State in 1820. This measure was effected in the exercise of the most friendly feelings, both by the citizens of Maine and Massachusetts. The territory of Maine is much larger than the other part of Massachusetts ; and when the separation took place, it contained nine counties, two hundred incorporated towns, and upwards of 290,000 inhabitants.\* When the government was first organized, and for several succeeding years, the Legislature held its meetings at Portland.

At this period, the finances of the State were in a prosperous condition. The tax was \$133,000, besides a sum to reimburse the pay advanced to the members of the House of Representatives. In the early part of the year, the treasurer was authorised to borrow \$50,000, to meet the expenses and pay the demands on the government, but he had no occasion to obtain the loan. A part of the debt of the State was also paid off, during this year. The Commonwealth had some debts standing against it ; but it had, also, stock of the United States and other credits to overbalance all claim upon the treasury. In referring to the financial concerns of the State, the Governor recommended

\* Massachusetts contained 520,000, at that time.

attention to its resources, and urged the importance of maintaining the public credit, by having the treasury always in sufficient funds to meet payments with promptness, and without a resort to the expedient of borrowing. He also suggested the propriety, when all the debts of the State were paid, of appropriating a part of its income for the encouragement of agriculture, commerce, fisheries and the arts. Agriculture and commerce, he said, were the foundation of all our prosperity. The tonage in Massachusetts, at this time, was one third part of that of the whole of the United States.

Governor Brooks was a great advocate for industry and economy. He lamented the introduction of foreign manners, and of an expensive mode of living. A good education, and habits of frugality and industry, he considered essential to the perpetuity of civil liberty, and of the republican institutions of the country. From his speech to the Legislature, on his re-election in 1819, the following paragraph is given, expressive of his views as to the fundamental doctrine of free governments, and the importance of early education and the discipline of Youth.

“Our Constitution is virtually and essentially in the hands and at the disposal of the people. This is not merely the language of the Constitution. It is a doctrine which lies at the foundation of republicanism. And the conservation of our liberties, as defined in our great social compact, is intimately connected with the intelligence of the people. But man is born neither wise nor good. Knowledge and virtue result from instruction and discipline. The senses of mankind early and ea-

gerly seek their appropriate objects of gratification. The passions, easily excited in childhood, are prone to, and grow stronger by excessive indulgence; while the powers of reason necessarily associated with experience in their progress to maturity, are slow and late in being fully developed. Hence the danger of habits being formed injurious to society and destructive of individual happiness. Hence the importance of early tuition and moral discipline; and hence also, the interest which the public has in providing means for cultivating the minds and forming the manners of youth. Agreeably to these sentiments, the Constitution enjoins it as a duty on the Legislature to cherish the interests of literature and the sciences, and public schools and grammar schools in the towns. Should the existing laws be found insufficient to provide for the primary education of children, especially of the poor, prerequisite to their admission into the grammar schools, the deficiency has strong claims upon the Legislature. Our venerated fore-fathers rendered their memories imperishable by their care and solicitude in the cause of learning; and experience, instead of discrediting their literary institutions, has served to heighten their value.”

## CHAPTER XVI.

Convention for alterations of the Constitution.....Mr. Adams chosen President.....Alterations proposed by the Convention.....Part approved by the people, and part rejected.....Proposition to pay Representatives from the public Treasury.....Electors of President and Vice President of the United States.....Governor Brooks re-elected.....His speeches.....His political opinions.....His administration.....Manufactures extended.....state of society, of religion and learning.

In 1820, the Legislature submitted the question to the people, whether they would have a Convention to revise and alter the Constitution of the State: \* It was then forty years from its adoption. Some alterations, it was supposed, might be made, which would be improvements in the system, although there was no material defect in it, and no complaint of its abridging the liberties of the people. Some had it in view to diminish the number of representatives; some to adopt a new principle, respecting the choice of the Senators, which was that they should be chosen according to the population, instead of the wealth of a district or county. The separation of Maine made it proper, also that

\* It was first proposed, that there should be *two thirds* of the citizens in favor of revising the Constitution in order to call a Convention for the purpose. But after some debate, it was agreed to require only the majority.

some alteration should be made, in apportioning the Senators, or in lessening the number required by the Constitution.

The votes of the people were in favor of a Convention, which met in Boston, in November 1820. It consisted of about five hundred members, among whom were some of the most eminent civilians in the State. The Honorable John Adams who had been President of the United States, was unanimously chosen President of this highly respectable body ; but he declined, on account of age and infirmity. He was then eighty five years old. Chief Justice Parker was thereupon elected to preside. The Convention was in session about seven weeks ; and voted in favor of several propositions, as amendments or alterations to the original Constitution, to be submitted to the people for their consideration and approval. This course was in strict and full accordance with the fundamental principles of a republican government, that the people are the source of all political power, and that it is to be exercised agreeably to their will. There was no usurpation, in this measure, on the part of the Legislature, or of the Convention ; and no attempt to dictate to them what changes should be made. It was by the vote of a majority of the citizens in the State, that a Convention was holden for the purpose of digesting and proposing such additions or alterations as it might think proper ; of the expediency and wisdom of which, however, the whole people were afterwards to judge. Whatever was proposed and recommended by the Convention, such changes only as the people approved could be valid, and be incorporated with the Constitution. Fourteen articles or clauses were adopt-

ed in Convention, and afterwards submitted to the citizens for their opinion. Only nine were approved by them; and one of these related merely to the mode of introducing future alterations.

It was proposed by the Convention so to alter the third article of the Bill of Rights, as that the Legislature should *not* have the power to enjoin on the citizens an attendance upon public religious worship—as that a person might pay his religious or ministerial tax to the clergyman of any Society, to which he should choose to unite himself, even if of the same sect or denomination, and if formed within the limits of the parish, to the support of the minister of which he was before regularly assessed—and as that no citizen of the State should be liable to a tax for the support of any clergyman, except the one on whose instructions he attended, although he should have property in other towns or parishes, than that in which he resided. But these proposed alterations were not approved by the people: and the third article in the Bill of Rights was, therefore, retained, without alteration. By thus rejecting the proposition of the Convention, the people *virtually* declared their disapprobation of the law of 1811, which gave occasion, to those disposed to avail of it, to avoid paying to the support of any regular religious teacher, and to form societies, religious only in name, where no regular instruction and worship were enjoyed. But the Supreme Judicial Court seem to have admitted the constitutionality of the law of 1811; and that is the legal tribunal to decide what is the meaning and intent of the Constitution.

The Convention was in favor of an alteration of the Constitution, by which only one session of the

General Court, in a year, should be required; and that to commence the first Wednesday of January; with a power in the Legislature, or the Governor, to have other meetings, when the exigency of public affairs might render it necessary. But such a change was not approved by the majority of the people. Another alteration of the Constitution proposed by the Convention, and that a very material one, was, that the Representatives should be chosen by districts, instead of towns which had always been the practice in Massachusetts. The object was to reduce the number of Representatives, so that they should not exceed 250 or 260. As the Constitution was, the whole number of Representatives might be upwards of 500, even after the separation of Maine; and this was thought to be unnecessary as well as expensive. The proposition was that a town containing 1650 inhabitants might send one Representative; and a town with 3600 inhabitants might elect two: and that small towns contiguous to each other should unite in the choice of a Representative. But the plan did not receive the approbation of the people.

It was also the opinion of the Convention that the tenure of office for the Judges of the Judicial Courts, should be *expressly* during good behavior, without a liability of removal for any other cause. But the people were satisfied with the provisions of the Constitution on this subject, and did not ratify the proposed alteration. They probably, concluded, that there would be no danger of their removal, for merely political purposes; and that they were really secure in their office, while their conduct was dignified and impartial, as it always had been. A majority of the people were, indis-

putably, in favor of the independence of the Judges, and would have rejected any measure, which they believed designed to lessen their power, or their dignity; or to place them in a state of dependence upon the popular will, or upon the favor of other officers of the government.

The alterations proposed by the Convention, to which the people assented, were, that the Governor should have five days, while the General Court was in session, to consider and make his objections to any bill which might be laid before him; otherwise the bill should not become a law. The reason for making this alteration was, that, on one occasion, a few years before, the General Court had voted, that a bill adopted and sent to the Governor for his approbation, should be valid as a law, though the Governor had but part of one day to consider its provisions, when the Court adjourned.

Another alteration in the original Constitution was to give authority to the General Court to constitute municipal or city governments in any town in the Commonwealth, which contained 12,000 inhabitants, the Legislature reserving the power to annul any by-laws made by a city government.

The article or clause of the Constitution, respecting the qualifications of voters for State rulers and Representatives, was so modified, that a citizen of the age of twenty one years, who had resided within the Commonwealth one year and within the town in which he claimed the right to vote, for six months preceding an election, and who had also paid a tax within two years, in some town within the State, should have the right of suffrage. It was also provided by an article proposed by the Convention, that, in the election of officers of the

militia, those under the age of twenty one years, who were members of a company, should have a right to vote. Of these the people also approved.

Notaries Public had formerly been chosen by the General Court; but it was recommended by the Convention, that they should be appointed by the Governor, with the consent of the Executive Council, in the same manner as Justices of the Peace, and for the same time, which is seven years. This alteration met with the approbation of the people. That part of the Constitution, which required all the Legislators, magistrates and civil officers to declare their belief in the christian religion, was annulled; and the oath of allegiance to the Commonwealth much abridged. The incompatibility of office, or offices, was made more definite, and in some instances increased; for it was provided, that no county attorney, Clerk of a Court, Sheriff, Register of Probate or Register of Deeds should at the same time, be a member of the Congress of the United States; and that no Judge of the Court of Common Pleas should hold any other office under the government of the Commonwealth, except the office of Justice of the Peace or of an office in the militia.

A mode was also proposed in Convention for making future amendments in the Constitution and approved by the people; which was of the following import—The amendment proposed must receive the consent of the majority of the Senate, and of two thirds of the members of the House of Representatives—be published and approved by the like numbers in the next succeeding General Court; then submitted to the people; and if approved by the majority of those who voted thereon, to become

a part of the Constitution of the Commonwealth.\* The greatest harmony prevailed among the members of the Convention during the whole period of its session; although they belonged to different political parties, which had formerly manifested a great degree of opposition to each other, in their sentiments on public measures; and were sometimes accused even of cherishing principles of government of no little variance. The latter opinion was fully shewn to be unfounded, by the agreement of the whole Convention, as to the essential and fundamental principles of the Constitution. And with the great body of the citizens, it was a source of satisfaction and of gratitude, to reflect that in strengthening and repairing the foundation upon which the free and republican institutions of the State were to rest, there was but one spirit and one purpose prevailing, and that was such as the purest patriotism and an ardent desire for the liberty of future generations would dictate and approve.

At the session in June, 1820, the House of Representatives resolved, that the pay of the members should be in the same way and manner as their travel. But the Senate did not concur with the House in this resolution. They said, "that the Constitution provided that the expenses of travelling to the General Court and returning home should be paid out of the public treasury; but made no provision respecting payment for attendance. The first General Court, held under the Constitution, provided by a resolve of November 13th, 1789, for the payment of the Legislature for their attendance, and that the pay of the House of

\* See Appendix.

Representatives be charged to the several towns, agreeably to the Constitution."

In 1820, the Electors of President and Vice President of the United States were chosen by the citizens in districts. There were no political parties at that time, and but one prominent candidate presented to the people. Here is [proof, that this is the most natural and proper mode of choosing the Electors. It is only in a time of party excitement that any other mode will be adopted, except that of a general ticket; to which, in a small State, there can be no good objection. The people ought to vote for the Electors; and no intelligent man will give his vote for one, with whose character and opinions he is unacquainted. Public agents should never perform any acts, to which they were not appointed, and which it is the prerogative of the people themselves to do. The Electors all voted for Mr. Monroe, then Chief Magistrate of the United States.

By a reference to the Speech of the Governor to the General Court in June 1821, it will appear how highly he appreciated the benefits of industry and of the moral virtues to social happiness.

"The general prevalence of industrious habits, and of good manners and morals in the community you represent," he observes, "is a subject of pleasing contemplation. It encourages the persuasion, so grateful to every benevolent mind, that religion and the laws are effecting those salutary purposes, which they were intended to produce. It is at the same time a satisfactory pledge of the prosperity and happiness of the people of the Commonwealth.

"The truth of no position is more fully estab-

lished, than that a close connexion subsists between the morals of a people and their enjoyments. And as this connexion results from an order of things ordained by the Great Creator, it must be indissoluble. Evils incident to humanity, communities and individuals should be prepared to encounter. We are not authorised to look for an exemption from moral any more than from physical evil. Under the present economy of providence, vice and crime must be expected to intermingle themselves with the affairs of men; and the vigilance of the legislator as well as of the magistrate must be in constant requisition to guard and protect the community. But the history of mankind tends to inspire the belief of a gradual amelioration.

“Forms of government, systems of religion, and a state of civilization and refinement, exert a powerful influence in forming the manners and morals of a people. And here may we not foster strong hopes of the continued prosperity and happiness of our country? The manners and morals of the people of Massachusetts have been formed under circumstances peculiarly fitted to insure their permanence. Our free Constitutions of governments, the benign religion we profess, the improvements in the powers of the understanding, our habits of order, together with our physical relations to climate, soil and occupation, conspire to render durable the liberties and the prosperity of the State.

“Massachusetts was always free. Our forefathers brought with them from the other hemisphere their civil and religious privileges, which, being transplanted to a new region remote from the

blighting influence of despotism, gradually acquired greater amplitude, struck a deeper root, and attained a more vigorous growth. Under charters which had been granted with reluctance, our ancestors, though watched with jealous vigilance by the grantors, acquired more enlarged and definite ideas of their rights; and liberty, no longer a fanciful theory, was reduced to practice and became habitual. When the ties which bound the provinces to Great Britain were severed, the former, though knowing no constitution but a charter, already recognized only as belonging to history, remained firm and steady in their habits. The separation could scarcely be deemed a revolution. Ancient usages supplied the place of laws, until after the lapse of five years, the Constitution under which we now assemble, was formed and adopted. Without arrogance, or intending to utter an invidious remark, it may justly be affirmed, that no people on earth ever enjoyed so great a share of the blessings of freedom and self government as do the people of the United States. Not, indeed, that undefined and tumultuous liberty, which has occasionally agitated the government and emblazoned the history of some other nations; but that sober, rational liberty, which equally consults for and protects the rights of all the people, and manifests itself with a mild, steady and benignant lustre in our civil constitutions.

“ Among the means, on which the public prosperity depends, *industry* holds a distinguished place. Few of our enjoyments, indeed, are derived from any other source; and without the agency of *industry*, all our hopes of future prosperity must wither and die. To many of the vices

which debase and impoverish mankind, it proves the most efficacious antidote; and, as the foundation both of public and private wealth, has undisputed claims to legislative consideration. By the power of industry, the American wilderness has been reclaimed; and our fields, enriched by culture, are made to teem with plenty. Industry has erected our temples of religion, of learning, and of justice. It has raised and furnished and adorned our habitations, built and navigated our ships, and filled our stores and garners with the products of various climes.

“We live in a land, in which the rights of man are well understood, where we meet one another enjoying the same franchise, and the offspring of a common parent. On this hallowed foundation is erected our venerated Constitution: and all subordinate institutions—our laws, the care bestowed on the education and morals of youth, the ample scope given to talent and mental effort, the principle of equality which governs the distribution of estates, and the interest which every one has in maintaining a free government—conspire with many other causes, to render the constitution perpetual. No better proof can be furnished of the merits of this political compact, and of its adaptation to the character and circumstances of the Commonwealth, than that for forty years it should have been the means of making a great community happy. The result of the test, to which it has been recently subjected, has proved the attachment of the people to the Constitution; and that, in their estimation, few alterations only were expedient.”

During the period from 1816 to 1821, a great

number of cotton and woollen manufacturing companies were incorporated. Previously to that period, there were nearly one hundred similar establishments in the State. In several of these a large capital was invested; particularly in those, then recently incorporated. The amount vested in cotton and woollen manufactures was estimated at \$20,000,000. Those which were skilfully conducted, proved to be profitable establishments for several years. Yet the aid of the national government was solicited, in favour of the manufacturers, by imposing higher duties on imported cotton and woollen goods. This system and policy, however, were much opposed by those engaged in navigation; and generally, by the citizens in the eastern States. But a few years after, the advocates for this policy in Massachusetts increased, though the opposition of a respectable portion of the people was as strong as at any former period. By the former, it was asserted, that extensive domestic manufactures would add to the prosperity of the country, and that some specific legislative protection was necessary to their support; while the latter contended, that commercial intercourse and trade with other countries should be as free as possible; and that legislative interference would operate unequally upon the people. The Legislature of the State, however had no controul in this business; it belonged exclusively, to the federal government to make laws for its regulation.

In addition to his ordinary duties, as the Supreme Executive and civil officer of the Commonwealth, the Governor had devolved on him, by the Legislature, the management of the claim on the government of the United States, for the expenses

of the militia in the war of 1812. He was authorised, in 1817, to appoint agents to present and urge the claim of the State. This was promptly done, but without success—Afterwards, the General Court requested the members of Congress from the State, to attend to the subject—and at a later period, (1819,) the Senators from Massachusetts were instructed to present the claim, and to obtain an allowance from Congress. But all these efforts were ineffectual. In 1820, the Legislature again intrusted the subject to the Governor, to be managed in such way as he might think proper and expedient. The Governor consulted his Council as to the best mode of prosecuting the claim. An able and elaborate report was soon after made on the subject, by a committee of the Council, to whom it was referred.\* The report was unanimously accepted by the Council, and published by their order.

In this report, it was shown, that the state of things in 1812, when war was declared, and the request first made for the militia, was a novel one; and that there might be a difference of opinion between the Governor and the officer of the United States, without impeaching the patriotism of the former, or rendering him justly liable to the charge of improper opposition to the measures of the national administration—that the Governor had duties to discharge, for the protection of the rights of the militia—that he intended not to oppose the laws of the federal government, nor to decline a compliance with the requisitions of its officers, except when such compliance would, in his opinion,

\* Hon. Richard Sullivan was Chairman of that Committee.

be a violation of his duty to the people of the State—that great difficulties arose, on the part of the militia themselves, to an execution of the orders of the United States officer, in the manner proposed—that whenever invasion threatened, the Governor called out the militia for the defence of the country, and on several occasions according to the request of the officer of the national government: thus showing a disposition, not to oppose or embarrass, but to aid the views of administration—and that, as the general government provided no means of defence, the imperious duty devolved on the Governor and Legislature of the State, by whose orders it was efficiently and economically defended: and, therefore, that the federal government ought to provide for a reimbursement of the sums expended.

The Governor requested the Secretary of the Commonwealth to send the report to several gentlemen not of the Council, but who were distinguished for their public services and political wisdom. From these persons, the Secretary received notes, in which they expressed their approbation of the view taken of the subject, in the report of the Council. One of them said, “I thank you for the report of the Committee of the Council. I have read it with attention; and it appears to me a temperate, able and logical exposition of the merits of a claim, which ought not to be suffered to slide into oblivion; and the consideration of which, I trust, will be favourably affected both by the matter and the manner of the report. The letter of General King, respecting the defenceless situation of the maritime frontier of the State, so far as regarded the forces of the United States, is

an important document." Another observed, "I have read with great pleasure the report on the merits of the claim of Massachusetts on the general government. It is able, complete and conclusive. Its effects ought to be decisive. But fair statements, strong arguments, and logical conclusions, do not always produce the effect they ought. This elucidation of the claim, I consider very happy, both in its talent and in its spirit, to meet and to avail of any favourable opportunity for a fair and impartial examination."

Governor Brooks was a decided advocate for the rights of the State. In his public speeches he was explicit on this point.\* He considered the federal government as one of limited powers. The authority which it could justly exercise, he contended was expressly declared or clearly implied ; and when powers not delegated by the Constitution, were assumed by Congress or the national rulers, he conceived it a solemn duty to remonstrate against the acts and measures thus arbitrarily proposed. But the legitimate authority of the general government, he was always ready to support and obey. He believed that the federal government was essential to the welfare and prosperity of the Union ; and that the powers given to it by the States should be no farther limited than they were by the Constitution. About the *theory* of the general government, however, there is little dispute. A collision of opinion occurs only on the application of principles to particular cases. No one doubts the just authority of Congress "to provide for calling out the militia to repel inva-

\* See pages 242, 243, 253.

sion," when an attack is made, or immediately menaced, on the territory of the United States ; or the right of the President to direct a military officer to command them, *to repel such invasion*. But many do deny the constitutional power of Congress to provide for calling out the militia on any occasion not specified in the federal compact ; and the right of the President, or of any officer he may appoint, to order them into service, except in the manner authorised both by law and the Constitution, and when the exigency occurs, contemplated by that instrument. The President of the United States is as much bound and limited by law, as any other public agent : and Congress even, the Supreme Legislature of the Union, is restricted in its authority, by the Constitution. If these limits are disregarded by Congress, or the President, and powers are assumed not granted to the federal government, the people, through the State rulers, may be expected to protest against the exercise of such assumed authority.

A spirit of forbearance, of wisdom and compromise, such as led to the adoption of the federal Constitution, will often be necessary both in national and State rulers, to prevent unpleasant collisions, and to preserve the peace of the Union. The call for the militia of Massachusetts in June 1812, when war was first declared, and when there was no actual invasion and none immediately threatened, was believed by some of the wisest and best citizens in the State not to be warranted by the Constitution ; and hence the origin of the dispute between the rulers of the State and Nation. When it was objected, that there was no invasion, and therefore no just cause for calling forth the militia, it was at-

tempted to justify the requisition, by stating, that the regular troops in the national service were ordered away to invade Canada, and that the maritime frontier of the State would be exposed. But even this could not justify the claim of the national rulers to the service of the militia, nor an order of the Governor for that purpose. Nothing but invasion, or the imminent danger thereof, could authorize the calling out of the militia. To press the people into the military service, except in such an exigency, would be a gross violation of their unalienable rights. Even if the plans of rulers are such as to lead them to expect an invasion of the country, at some future day in retaliation for hostile attacks on another nation, they could not justly call the militia into actual service, before an invasion took place, or immediately threatened. They could, with propriety, only order the militia to be detached, and to be in readiness for the service, whenever the exigency should occur. Such a distinction seems to have been perceived and recognized by the federal government in 1795. Surely, the national rulers would not plead their own neglect or errors as an excuse for requiring service of the militia, which, otherwise they could not constitutionally demand. It would be an arbitrary exercise of power, both in national and State rulers, to require the service of the militia, in any cases except those mentioned in the Constitution. A different construction put upon the clause of the Constitution, which refers to calling out the militia, would allow such a controul over the citizens, as to render them liable to military service on any occasion and in any manner the rulers might direct. The claim set up by the officers of the general gov-

ernment was, that war being declared, every part of the country was liable to invasion, and that the right, therefore, existed to call forth and command the militia, without restriction as to time, place or circumstances.

Both in principles and manners, Governor Brooks bore a strong resemblance to the most eminent characters in Massachusetts, of a former generation. All the distinguished patriots of the revolution were personally known to him ; and he had a just apprehension of their opinions and views, on political subjects. He was, moreover, a celebrated actor in many important scenes belonging to that eventful and memorable period. No one better understood or more fully approved of the principles which led to the revolution. His public speeches shew this. He was sincerely and thoroughly republican in his political principles. But he was no demagogue. His manners were conciliating ; and he was not indifferent to the good opinion of his fellow citizens. But he was one of those “rare patriots who prefer the public good to the public favour.”

Governor Brooks entertained an exalted opinion of Washington, not only as a consummate general, but as a wise statesman. It was probably his intention, as far as circumstances rendered it suitable, to conform to the principles of that great man. He was like Washington in firmness, moderation and impartiality. In his appointments, he was desirous of rising above all personal friendship, and of selecting for public office, the persons best qualified and most likely to be acceptable to the people. He was a *federalist* ; for he was attached to the Constitution which was framed in 1787, to give strength

and unity to the confederation of the United States; and he approved of the policy pursued by Washington, in administering the general government, under that Constitution. And he was a *republican*, for he acknowledged and contended that the people were the source of civil power, and that their will was to be obeyed by their public agents. He was no otherwise anti-democratic, than that he considered it the duty of every intelligent and honest man, in times of party excitement, and when there was danger of opposition to lawful authority, to undeceive and give correct information to his fellow-citizens.

From 1800 to 1820, the literary and religious character of the people of Massachusetts suffered no material change. Private schools, however, were increased; and the youth who attended them, were farther advanced in their studies, than was common at an antecedent period. Public Schools were maintained as formerly at the expense of the community, and were open for the benefit of the children of all classes, on a perfect equality. In these also, the youth had an opportunity for higher attainments in literature and science; and the children of the less opulent shared in all these means of improvement.

No new religious sect sprung up during this period; but some of those which were formerly known were multiplied, in different parts of the State. The denomination of Universalists increased in various places. The Baptists and Methodists were respectable, and might justly boast of some increase through the Commonwealth. The proportion, however remained nearly the same, as it was in the latter part of the preceding century. Among

those of the Congregational order, different speculative opinions prevailed. This diversity of sentiment had previously existed. But more recently, it produced an alienation of affection, or a suspension of christian intercourse and fellowship, which many regretted, and which had not been known before. But where the minds of men are perfectly free to inquire, there will be differences of opinion, on speculative points of theology. And where there is no power to restrain and punish for opinions different from those of the majority, or of former times, many will be independent and honest enough to declare their views. In this state of freedom, there will also be controversy. This is sometimes conducted rather with a view to victory, or party, than to truth; and generates an uncandid and bitter spirit. When managed with a suitable temper, it produces beneficial results, and ought not to be condemned.

After the war with great Britain and the general peace in Europe, which took place at the same period, Massachusetts made greater advances in agriculture and manufactures than in commerce. There was, indeed, a good spirit of commercial enterprize among the people; but pursuits of this kind were not attended with such great profits, as at former periods. Several sea ports in the State became much impoverished; and their trade almost annihilated. Manufactures were multiplied; and agriculture, the first and most natural occupation of man, received substantial improvements. Societies were formed in all the counties of the State, for encouragement to farmers; and monies were appropriated from the public treasury, for premiums to those who excelled in their farms, in

their cattle, and in the various fruits and products of the earth.

The soil of Massachusetts is not throughout so favorable to profitable agriculture, as that of some other States. But the greater portion of the people are farmers ; and by industry and frugality, they secure a comfortable living. They are very generally well-informed, and correct in morals. They claim liberty as their birth-right ; and have a generous desire to hand down to future generations the political privileges and blessings, so long enjoyed by themselves and their virtuous ancestors. Manufactures will probably increase among such an industrious people ; but to be really profitable, their increase must be natural and gradual. Commerce and Navigation have been pursued from the first settlement of the Commonwealth ; and the pursuit has enriched the State, and refined the character and manners of the people. No wise Legislature will ever discourage and repress such enterprises : For the effects would be calamitous to the whole people.

Governor Brooks continued to receive the suffrages of the people, until he publicly and expressly declined the office of Chief Magistrate, which was in 1823, when he had reached the age of seventy years. He had the satisfaction to reflect, that his conduct in the chair of State was acceptable to the multitude of his fellow citizens through the Commonwealth of both political parties, and especially to those who had given him their support ; and to anticipate the continued prosperity and welfare both of the State and nation.

The last public State paper from Governor Brooks happily develops the sentiments and views

which were most prominent with him, in relation to the general welfare of the State, and the duties of the citizens. He had, indeed, expressed similar views on former occasions ; and the fact serves to shew his great anxiety for the permanent prosperity and happiness of the people. So long only as such sentiments are appreciated, and so long only as the virtues he recommends are cultivated and exercised, will the civil blessings, for which Massachusetts has been eminently distinguished, be secure. A part of his last speech follows.

“ A short time only had elapsed after the first founders of Massachusetts had began their settlements, before political and commercial jealousies on the part of the British government became very apparent ; and at every period of her colonial existence, her interests were sacrificed to the avaricious and domineering spirit of the parent country. But a course of conduct, thus selfish and oppressive, though designed to impede the growth of the colony, and to insure its dependence on and subser-viency to Great Britain, ultimately defeated its own purposes. Subjected, as the colonists were, to the unbending rigour of the colonial system, a limited commerce only was allowed them ; and even the stinted share of traffic which they were permitted to prosecute, was encumbered with regulations far less calculated to remind them of their filial relation, than of their inferiority and subjection. Incentives to extensive enterprise were thus denied to her merchants ; and the accumulation of capital, which a liberal commerce only can effect, was rendered impracticable. But while made to feel the weight of power, and to submit to the humiliations of colonial restrictions, they were led, by

a very natural train of thought, to investigate, not merely the nature of magna charta and the constitution of England, but the broad principles of all legitimate civil authority, founded on the natural rights of man; and ultimately, to form an estimate of the value of self government. In the mean time, habits of industry and economy were formed, and the skilful management of their circumscribed interests was acquired, and the colonists became fitted for acting their part well as subjects, and to sustain with honor the separation which awaited them.

“But the acquisition of Independence failed to fulfil the public anticipations. The States, by mighty and united efforts, had become independent and free. Peace soon disclosed truths, which had hitherto been but partially believed, that the boasted union of the States, under the confederation, had resulted from the pressure of a common danger, and that something was yet wanting to complete the revolution, and insure the general welfare. The vital defect, however, was long felt and deplored, before the national will ordained a remedy. The beneficial effects, produced almost instantaneously, by the operations of the national government, were wonderful and incalculable. The sudden restoration of public and private credit, the animation given to enterprize and industry, in the various branches of political economy, and the general amelioration in the condition of the people, which are still in our recollection, were occurrences which transcended the hopes of the most sanguine. Massachusetts shared largely, for a time, in these results. But the regular order of peaceful commerce was destined to derangement.

A long series of astonishing phenomena ensued, involving the destruction of governments, the extinction of nations, and a change in the habits and occupations of a large portion of the human family in the civilized world. The citizens of this State, observant of the character of the times, and yielding to the allurements of emolument attached to the neutral flag, availed themselves very freely of their neutral rights. The unnatural excitement, however, produced in one branch of enterprise, left others to languish: and commerce, after suffering unexampled vexations from the bellicerents of Europe, was driven from its ordinary channels in times of peace; and, eluding the sober calculations of the experienced merchant, became the subject and the victim of chicane and speculation.

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“ From every just consideration, Massachusetts ought to cherish a love of peace, it being a condition most congenial to the habits and feelings of the people, and most favourable for the cultivation of the means of improvement and happiness. The fisheries, one great source of subsistence and emolument, must, in a time of war, be annihilated; although in a time of peace they give lucrative employment to thousands of the hardiest of our fellow citizens, and constitute the greatest and most permanent nursery of seamen for our gallant navy, which is the pride of the United States, and the support of their commerce and honor abroad.

“ The martial energies of our country have never been questioned; and her ability to sustain the arts of peace is now fully demonstrated. The enemies of the revolution represented us indeed, as possessing neither the intellectual, nor the moral,

nor the physical elements for constituting an independent government. But what are the facts? Our naval and military triumphs, our commerce, which, under the fostering care of a paternal government, has spread over the world, and is now gladdening the human heart in every clime; and above all, the contentment, the good order and social happiness, enjoyed by more than ten millions of free people, give the answer."

A writer in one of the public papers in Boston, expressed the sentiments of a large majority of the people throughout the Commonwealth, in the following brief notice of the character and services of Governor Brooks, which appeared a few days after his last message was sent to the General Court. It is the more proper to quote it, because no reply was made by the Legislature to the message; it being the practice only to answer a *Speech*, delivered by the Governor in person. To some, perhaps the praise bestowed by the writer, will appear to have been dictated by partiality and friendship. It is, indeed, the language of eulogy; but it was most justly merited.

"This able State paper is replete with sentiments, worthy of the Chief Magistrate of Massachusetts. It contains a brief review of the early situation of the Commonwealth; and of the means by which she has ascended to her present happy elevation. It leads us back to that gloomy period in our history, when in the weakness and obscurity of colonial dependence, the arm of power fell heavily on all her valuable interests, and our fathers were compelled to bow to the dominion of a foreign sceptre. It gives a lucid exposition of some of the causes, which provoked resistance to oppressions

grown into a system of unmitigated tyranny, and of the principles, upon which the colonists determined to break the bondage that enslaved them, and assert their just rights to civil freedom and national independence.

“ But our chief motive in adverting, at this time, to the document before us, is to express the deep regret, with which we learn, from its concluding paragraph, the resolution of his Excellency to retire from the chair, he has so long and so honorably occupied. This valedictory clause will be read with sorrow, by a people who know and appreciate the blessings of his administration. For seven successive years, he has ably and faithfully sustained the arduous and exalted office, from which he is about to descend, in the full enjoyment of public confidence. During this long period, he has uniformly acted under the consciousness, intimated in the message, “ that the public interests should be watched with the vigilance of a faithful sentinel.” Succeeding in office that venerable statesman, whose political course was a career of wisdom and usefulness, the task was indeed an arduous one, to satisfy the public expectations in him who was to stand in the place of Governor *Strong*. But those expectations, exalted as they were, have been fully realized, in the administration of Governor *Brooks*. His robe of office was the mantle of his predecessor ; and he has proved himself worthy of that pure and splendid panoply. The honorable attitude in which he now stands before his country, after a long life devoted to its service, while it fills us with regret that he is about to withdraw, may well create the anxious inquiry, upon whom is that mantle again to fall ? Governor *Brooks* will descend to the

shade of retirement full of years and full of honors. In the dignity of virtuous age, we trust he will enjoy that repose and felicity, which are the just rewards of a life filled with public usefulness, and that best of earthly satisfactions, the consciousness of having so executed his high trust, as to secure the gratitude of his country and the approbation of his God."

When Governor Brooks retired from office, Mr. Phillips, who had been Lieutenant Governor for eleven years in succession declined a re-election. He was a man of good judgment, and of great firmness of purpose. His patriotism, his piety and his charities have rendered his name eminent among the good men of Massachusetts who have passed away. The most perfect cordiality subsisted between him and Governor Brooks; as well as Governor Strong, with whom he was associated in the government for four years.

During the impartial and magnanimous administration of Governor Brooks, party feelings were, in a great measure, suppressed or moderated; and political distinctions became less apparent, than they had been in former periods. He believed, that his political opponents, generally, were friends of good government and of the Constitution. And though he would not compromise his principles, or act contrary to his own convictions, he was ready to allow the virtue of patriotism in others; and to select for office, if capable and honest, those who had belonged to a different party from that of his most ardent friends. In some cases, he differed from his Council in this respect. Not that they were ever intolerant or exclusive; but they were not, perhaps, altogether so superior to the influence

of political feelings as he was. For the patriots and heroes of the revolution, he had a very strong attachment. He considered them worthy of distinction and honor, except where the infirmities of age rendered them incapable of performing the duties of a public station. In selecting persons for office, he had reference rather to their real fitness, and to assurances of fidelity, which their past characters gave, than to their political professions. It was his belief, that there were able and upright men belonging to each of the parties, which had long divided the State; and that it was proper for the Chief Magistrate to call to the public service, individuals of both political divisions, so far as their qualifications would justify him.

From 1790 to 1820, the population of Massachusetts steadily increased, notwithstanding the very great emigrations to other parts of the Union. Many of the inhabitants, during that period, removed from the State, and settled in Vermont, New York, Ohio, Kentucky, Illinois, &c. Lands could be purchased at a low price in those States; and the soil is more favorable to agriculture. The population in 1820, however, was more than double that of 1790; and had there been no emigrations, the census would, probably, have been nearly one third more than it was; making an increase of double the number of inhabitants in twenty one or twenty two years.

In the leading or peculiar traits of character, the people of Massachusetts are much the same, as for several generations past. They are not fond of great changes; and to mere innovations they are decidedly averse. Their first desire is to give their children a good education, and to maintain the lit-

erary and religious institutions of the Commonwealth. They acknowledge the importance of useful employment for all classes and ages, and are desirous that their children should acquire early habits of study and industry. They are ever ready to encourage useful inventions, and to adopt improvements in agriculture and the mechanic arts, although they are deviations from the pursuits of their ancestors. With such an intelligent and moral population, it will not be difficult to support a republican government. It is only when the people are ignorant and corrupt, that civil freedom is in danger, or that a few ambitious men can establish a despotic government where liberty has long been enjoyed.



## APPENDIX.

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The Proclamation of Governor Strong, issued the 26th of June, 1812, for observing the twenty third of July, as a day of public Fasting, Humiliation and Prayer, was as follows :—

Whereas it has pleased the Almighty Ruler of the world, in his righteous providence, to permit us to be engaged in war against the nation from which we are descended, and which, for many generations, has been the bulwark of the religions we profess ; and whereas, by this awful and alarming change in our circumstances, the people of this Commonwealth are, in a peculiar manner, exposed to personal suffering, and a loss of a great proportion of their substance ; it becomes us, in imitation of our fathers, in their times of perplexity and danger, with deep repentance, to humble ourselves before him for our sins, and for the ungrateful returns we have made to him for his mercies ; to ascribe righteousness to our maker, when he threatens us with the most severe of all temporal calamities ; and to beseech him to avert the tokens of his anger, and remember for us his former loving kindness and favour :

I do, therefore, by and with the advice and consent of the Council, and *at the request of the House of Representatives*, appoint Thursday, the twenty third day of July next, to be observed, by the people of this State, as a day of *Fasting, Humiliation and Prayer*—that, with penitent hearts, we may assemble in our places of public worship, and unite in humble supplications to the God of our Fathers, who was their defence in danger, and to whom they never sought in vain ; and beseech him, through the merits of his Son, that he would forgive our ingratitude, and our innumerable transgressions ; that he would

give wisdom, integrity and patriotism to our national and State governments, that "the leaders of the people may not cause them to err;" that he would inspire the President and Congress of the United States, and the government of Great Britain with just and pacific sentiments; that he would humble the pride and subdue "the lusts and passions of men from which wars proceed," and that peace may be speedily restored to us, upon safe and equitable terms—

That he would guard the lives of our soldiers and mariners, and protect our commerce and navigation from the dangers with which they are encompassed; that he would preserve us from intestine violence and from foreign invasion; that he would dispose the people of these States to do justice to the Indian tribes, to enlighten and not to exterminate them, and that he would protect our frontier settlements from their ravages; that he would preserve us from entangling and fatal alliances with those governments which are hostile to the safety and happiness of mankind; that he would regard with compassion the nations whose essential rights have been wrested from them by fraud and violence, and who are groaning under the cruel hand of oppression; that he would "break in pieces the power of the oppressor, and scatter the people who delight in war"—

That the inhabitants of this State may be the objects of his peculiar favour; that he would take them under his holy protection, "and hide them in his pavilion until these calamities be overpast;" that the chastisements with which he may think proper to afflict us, may serve to humble us and do us good; that we may not be like those who are hardened by his judgments, and who "in the time of their trouble multiply their transgressions against him;" that he would save us from the baleful influence of party spirit; and that whatever enemies may rise up against us from abroad, we may have peace and mutual confidence among ourselves, and know, by experience, "how pleasant it is for brethren to dwell together in unity"—

That he would accomplish the promises of his mercy concerning the future repose and prosperity of the human race,

“when men shall beat their swords into ploughshares, and learn war no more ;” when fraud and violence shall cease forever, and righteousness and peace prevail through the world ; when the kingdom of the Redeemer shall triumph over all opposition, and “the heathen be given him for his inheritance ;” and when “the earth shall be full of the knowledge of the **Lord**, as the waters cover the sea.”

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### GENERAL ORDERS.

*Commonwealth of Massachusetts, }  
Head Quarters, Boston July 3, 1812. }*

War having been declared by the government of the United States against Great Britain and Ireland, and the dependencies thereof, the commander in chief calls upon the militia of Massachusetts duly to notice the solemn and interesting crisis, and exhorts them to meet the occasion with constancy and firmness.

When war is commenced no human foresight can discern the time of its termination, or the course of events that must follow in its train. But the path of duty is the path of safety. Providence seldom abandons to ruin those, who, to a just reliance on the superintending influence of Heaven, add their own vigilant and strenuous exertions to preserve themselves. At the present moment, therefore, the commander in chief earnestly recommends to the officers, of every grade, a close and persevering attention to the duties resulting from their several stations; particularly that they acquire and maintain a perfect knowledge of the condition of their respective commands, and see, as far as is in their power, that their men are duly armed and equipped; that the time allotted to trainings be devoted to the instruction of non-commissioned officers and soldiers in the exercise of arms, and in the practice of evolutions, as pre-

scribed in the established regulations; and that the provisions and intentions of the laws being in every respect fulfilled, they may be ready, with alacrity and effect, to defend their country, their constitutional rights, and those liberties which are not only our birthrights, but which at the expense of so much blood and treasure, were purchased in the late Revolution.

From the docility, from the good sense and patriotism of the non-commissioned officers and soldiers, the commander in chief is led to expect a patient submission to the instructions of their officers, prompt obedience to orders, and the practice of all those military and masculine virtues which adorn the soldier and exalt the man.

To all the militia, both officers and soldiers, the commander in chief would superadd an earnest exhortation, as they are citizens as well as soldiers, to cultivate a spirit of candor, of friendship, and mutual forbearance, and an ardent love of country, that shall elevate them above all sinister views, and eventually secure to them and their children the blessings of peace, of liberty and good government.

The commander in chief requires that particular attention be paid to the town magazines; that they are fully provided with ammunition, military stores, and utensils as the law directs; and the brigade quartermasters are required to perform their duty with promptitude and exactness.

In such divisions as have not completed the detachment of ten thousand men, called for by the general orders of the 25th day of April last, the major generals, or commanding officers of those divisions, are enjoined to attend to that service without delay, and to make and complete the detachments from their respective corps, of the several quotas of the said ten thousand men, and to make return of the same, as speedily as may be, to the adjutant general: the said generals, and other officers, will take care that the militia so detached are duly provided with the efficient arms and accoutrements necessary for actual service. The militia detached by the orders above alluded to, after they are formed conformably to said orders, will hold them-

selves in readiness to march, on the shortest notice, pursuant to the orders to be given by the commander in chief, unless in case of actual invasion, or imminent danger thereof; in which case, without waiting for such orders, they will march without delay, to the defence of any part or parts of this Commonwealth that shall be so invaded, or in imminent danger of invasion: and when in the actual service of the United States, will be under the command of the President, agreeably to the constitution of the United States.

And whereas the quota of ten thousand militia, required aforesaid, being to be raised from the several divisions and corps throughout the Commonwealth, cannot be assembled in time to repel a sudden invasion; and to embody them previously, and keep them in constant service, would be extremely burdensome, and even if assembled would not be adequate to the defence of the numerous points of a coast of several hundred miles in extent; the commander in chief further orders and directs that the generals, and other officers of the whole militia of the Commonwealth, bearing in mind the possibility of a sudden invasion, hold themselves, and the corps of militia under their respective commands, in constant readiness to assemble, and march to the defence of any part or parts of the Commonwealth, pursuant to the orders to be given by him; but without waiting for such orders, in case of actual invasion, or such imminent danger thereof as will not admit of delay.

By the general orders above mentioned, of the 25th of April last, three major Generals, and six brigadier generals, were assigned to command in that detachment, without being regularly detailed from the roster. The commander in chief, therefore, orders that the following general officers, being detailed from the roster as the law directs, be appointed to command in said detachment, in lieu of the general officers named in the general orders aforesaid, viz:

*Western Division.*

**Major General Ebenezer Mattoon,**  
**Brigadier General Caleb Burbank,**

Brigadier General Isaac Maltby.

*Eastern Division.*

Major General Henry Sewall,

Brigadier General John Blake,

Brigadier General David Payson,

*South Division.*

Major General Joseph B. Varnum,

Brigadier General Ebenezer Lathrop,

Brigadier General William Hildreth.

By order of the Commander in Chief,

WILLIAM DONNISON, *Adjutant General.*

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## GENERAL ORDERS.

*Commonwealth of Massachusetts, }  
Head Quarters, Boston, Sept. 6, 1814. }*

The war between the United States and Great Britain having lately become more destructive, in consequence of violations of our territory, by the force of the enemy, which continue to menace our cities and villages, the shipping in our harbors, and private property on shore, his excellency, the commander in chief, orders the whole of the militia to hold themselves in readiness to march at a moment's warning, with arms, ammunition, and accoutrements, as the laws of the United States, and of this State require. Every man must likewise be provided with a good knapsack and blanket. Captains of companies must realize it to be one of their most solemn and imperious duties, to see the law respecting arms and equipments efficaciously executed; but the commander in chief relies on the concurring aid of all the general and field officers in encouraging the company officers in the discharge of their duty. The major generals and commanding officers of divisions will

give the necessary orders for an immediate inspection of their several regiments, by companies. Every instance of deficiency of arms or equipments should be forthwith supplied by the delinquent individual, or by the town to which he may belong, agreeably to the requirements of the militia law.

The officers commanding regiments, battalions, and companies of artillery, will pay special attention, at this interesting moment, to the state of their field pieces, their carriages, and tumbrils, and see that every thing appertaining to them is in the most perfect order for marching, and for action, and particularly that suitable horses are always engaged, and ready, at any moment, to be attached to their pieces, that they may be moved to any point required with celerity. All the companies of artillery, now to be called into immediate service, besides the requisite supplies of fixed and other ammunition, will be furnished by the Quartermaster General, with prolonges and brioles. The legislature of this State, always proud of its militia, has been particularly liberal in its artillery establishment; and the commander in chief promises himself, that, emulating the brilliant example of Knox, and his heroic associates, in the artillery of the revolution, they will be equally distinguished for their discipline as soldiers, and for their gallantry in the field.

Under possible events, the cavalry of the several divisions may be in requisition. Every motive, therefore of love of country, of honor and sympathy for their fellow citizens, who may be suffering the perils of war, will prompt them to maintain the most perfect state of preparation, and to move, when called to the scene of action, with all the rapidity of which cavalry is susceptible. The general officers, and the field officers of cavalry, as well as the company officers, will direct their attention to the quality of the horses, and suffer no man to be mounted but upon a horse sound and fit for actual service. A few bad horses may occasion irretrievable disaster.

The commander in chief having thus called the attention of all officers and soldiers of the militia to the observance of their

several duties, at this eventful crisis, the more effectually to meet impending danger, orders that all the flank companies, whether of light infantry, grenadiers, or riflemen, of the 1st and 2d brigades of the 1st division, two companies, viz: the one at Andover, and the other at Haverhill, of the 2d division; all the companies of the 3d division, excepting the two companies in Charlestown; four companies of the 4th division; five companies of the 5th division; eight companies of the 7th division, and two companies of the 9th division, do immediately march to the town of Boston, unless (in the mean time) otherwise directed. Each company will march to its place of destination by itself, without waiting for any other corps.

These companies when assembled, will be arranged into regiments, or otherwise as circumstances may dictate; and, with the addition of twelve companies of artillery, will form the elite, or advance corps of the Massachusetts militia. The field officers to command the regiments, and a general officer to command the whole, will hereafter be designated in general orders. The several companies of artillery to be annexed to the advance corps, will be furnished by the following divisions, viz: two companies from the 1st brigade, and one company from the 2d brigade of the 3d division; four companies from the 4th division; one company from the 5th division, and four companies from the 7th division.

Besides the above mentioned companies, the commander in chief orders a detachment of sixteen companies of infantry to be immediately made from the 4th division, properly officered, and arranged into two regiments, which will march to Boston without the least unnecessary delay. Major General Mattoon is charged with the arrangement of the regiments. From the 9th division, the commander in chief orders eight companies of infantry to be detached, properly officered, formed into a regiment, and marched to Boston. Major Generals Mattoon and Whiton will assign field officers for the troops, to be detached from their respective divisions; and the commander in chief relies on their experience and zeal to carry this order into the

most prompt and energetic effect. As soon as the troops shall commence their march, each Major General will give notice of it to the Adjutant General.

All the troops must be well armed, accoutered, and equipped; and provided with ammunition, provisions, knapsacks, and blankets, as the law requires. The men will be supplied with rations when they arrive at the place of destination, and will receive pay from the time of their being embodied.

The security of the town and harbor of Boston being an object of primary importance the commander in chief, while he wishes to direct the principal energies of the state to the attainment of this end, is solicitous to render the militia of Boston itself as efficient as possible. With this view, he orders the infantry of the the third brigade of the 1st division commanded by Brigadier General Welles, to be called out by regiments, in rotation, two days successively, for the purpose of improving their discipline, already respectable, and of enabling them to practice the higher duties of the field.

This order is committed to Brigadier General Welles, whose knowledge in tactics, and animated zeal in the service of his country, must ensure to his exertions the highest effect. The order will be continued in operation until revoked. The flank companies of this brigade will be reserved for other service.

The troops called into actual service by this order, will serve three months after they arrive at their ultimate rendezvous, unless sooner discharged.

By his Excellency's command,

JOHN BROOKS, *Adjutant General.*

*Answer of the House of Representatives to the Governor's Speech, January, 1814.*

“ The people of this Commonwealth, by the seasonable assertion of their right to investigate political measures, have checked a disposition manifested in some parts of the country, to stifle fair inquiry, to suppress the freedom of speech and of the press, and thus to protract the evils of misgovernment, and screen the errors or vices of a ruling party from exposure. While the privations and burdens of a war, deemed by the greater portion of our fellow citizens to be unjust, and by a still more numerous class, wanton and inexpedient, have been sustained with a patient respect for constitutional principles, its origin ought not to be forgotten. It should, on the contrary, be held in perpetual remembrance, as a warning to a once deluded people against yielding to the dominion of passions, of which a weak or wicked administration may take advantage to involve them in the deepest national calamity.

“ The British orders in Council, and the casual abuses arising from the practice of impressment, have ceased to be considered by impartial men as the causes of the present war. These were probably mere *pretences* for precipitating the nation into the gulph of a fatal policy, to the verge of which its authors had been impelled, by their own passions. The real course of the war must be traced to the first systematical abandonment of the policy of Washington, and of the friends and framers of the Constitution ; to implacable animosity against those men, and their exclusion from all concern in the government of the country ; to the influence of unprincipled foreigners over the press, and the deliberations of the national government in all its branches ; to a jealousy of commercial States, envy of their prosperity, fear of their power, contempt

for their pursuits, and ignorance of their true character and importance ; to cupidity of certain States for the wilderness reserved for the miserable aborigines ; to a violent passion for conquest, and an infatuated belief that neighbouring provinces were enamoured of our institutions, and would become an easy prey to the arts and arms of raw and boastful adventurers , and above all, to delusive estimates of the relative power and resources of Great Britain and France, and a determined hostility towards the former, as the firmest basis of party power. These will be viewed by the present generation and by posterity, as the sources of our present national evils ; and the *pretence* of aiming to secure the freedom of commerce and of seamen, by regulations which compel both merchants and sailors to renounce the ocean of their professions, will be regarded as the *boldest delusion ever attempted by a ruling party upon the credulity of an intelligent people.*

“ The recent act of Congress interdicting commerce under the name of an Embargo, has filled our minds with great solicitude for the fate of our country, and its liberty. The authority possessed by the national government, in relation to this subject, must be derived either from the general power to make war, or from the clause in the Constitution, which gives power to Congress “ to regulate commerce with foreign nations, and among the several States.” Under colour of an authority defined in those very intelligible terms, a right is claimed and exercised by Congress, of *prohibiting* not only all foreign commerce in American vessels, but the coasting trade ; and so far as Massachusetts is concerned, all intercourse by water between different parts of the same State. Such a construction is a violation of the Constitution, which renders it an instrument of slavery, rather than of mutual defence and security. An Embargo of this character, and intended, at least, for one year’s duration, is not a *regulation*, but an *extinction* of commerce : and it is worse than useless for the objects of war, as it destroys the resources which are indispensable for its success. It absolves, from the obligations of citizens, all those who are

disqualified by its arbitrary provisions from enjoying their rights or fulfilling their duties.

“ In reviewing the instructions given to the officers entrusted with the execution of this act, we avow with pain and alarm our persuasion, that they are at open variance with the first principles of constitutional and civil liberty. The inhabitants of distant parts of the Commonwealth are debarred from all communication with each other by water. The fisherman, whose humble and arduous employment is generally encouraged by the public enemy, can no longer pursue his calling. The ship owner cannot sell his vessel without restraints equivalent to a prohibition, however urgent the claims of his family or creditors. The paltry traffic which is still permitted, is left to the mercy and caprice of custom-house officers and their substitutes. A power of seizing money and effects, upon vexatious pretexts, or vague suspicion, and under the most innocent circumstances, is vested in men dependent on executive favour, and too often destitute of discretion and principle. A system of perfidy and breach of trust is explicitly recommended to the practice and adoption of the officers of banking institutions, towards those who deal with them upon terms of implicit honor and confidence.

“ And to enforce these outrageous provisions, and others of the same stamp, and involving great danger to personal liberty in various instances, the military and naval force of the United States is placed at the disposal of petty officers ; and the lives and property of the citizens subjected to the controul of bayonets and cannon. With these impressions, we are under a solemn conviction, that the time has arrived, in which it is incumbent on the people of this State to decide, whether these burdens are not too grievous to be borne, and to prepare themselves for the great duty of protecting, by their own vigour, their unalienable rights, and of securing for themselves, at least, the poor privilege of mutual intercourse by water, as well as by land.”

Adopted by a vote of 290 to 125.

*Remonstrance of the officers of the Militia, in the vicinity of Portland, who were called out for defence of that place.*

**To Major General Alford Richardson, commanding the militia called out for the defence of the town of Portland.**

The undersigned ask leave to represent, that, by a general order, of the date of twentieth day of September current, they are given to understand, that a detachment of the militia, to the amount of eleven hundred artillery and infantry, is to be made, and placed under the command of Brigadier General Chandler, an officer of the United States, and in the service of the same.

Against this disposition of any part of the militia of this commonwealth, the undersigned ask leave respectfully to remonstrate. And in doing this, they would request that the course of conduct, which they consider it their duty to pursue, may not be attributed to any motive, dishonorable to the *soldier*, or disreputable to the man. The promptness and alacrity with which they assembled at this place, at the moment when danger was threatening their fellow citizens of the metropolis, is an assurance that they are ready to defend their country from invasion, and have courage to preserve it unpolluted by any hostile foot. They, therefore, in remonstrating against this arrangement, think they have a claim to be heard, and that the reasons which may be offered, may be candidly weighed by the Major General, and that an ultimate decision may not be made without mature deliberation and reflection.

And first, your remonstrants are opposed, in principle, to the arrangement, inasmuch as they consider it unconstitutional, and subversive of the sovereignty of the Commonwealth of Massachusetts.

The constitution of the United States provides, that the President shall be commander in chief of the militia of the several states, when called into actual service of the United States. But we believe that this command is to be exercised by the officers of the militia, appointed by the States, and in this way only.

This construction the undersigned consider as sanctioned by the opinion of the supreme judicial court, delivered to his Excellency the Governor in August, A. D. 1812.

Having thus shown, in the opinion of your remonstrants, the unconstitutionality of the contemplated arrangements, the undersigned will be excused for pointing out some of the evils which may result from a different construction. General Chandler is himself a subordinate officer, and can make no pledge, which he may not be compelled to violate; or violate obligations paramount to any which he may stipulate, with regard to the station of troops under his command. The undersigned, therefore consider that, when once under the command of an United States officer, it will not be in the power of any officer in this Commonwealth to prevent their being marched to any post where the President may please to direct.

They may be compelled to abandon the defence of those, whom they volunteered to protect, and marched from their families to some place more assailable by the enemy, or deemed more important by the President of the United States. The probability that they will, is strengthened by the desire manifested to have the militia at the controul of the United States officers.

Again, it is a well known fact, that the officers of the United States hold the militia in the most sovereign contempt. They have no regard to their local habits or feelings. By a law of the United States, officers of the United States, of the same grade, take rank of the militia, when incorporated with them. In this way, the old and honorable militia officer is liable to be commanded by the stripling, for whom family influence, or political motives, may have procured a commission. Where have we a

pledge, that the many incumbents of offices in the army of the United States, whom we see in our streets, without men to command, may not be incorporated with us and our troops, and thus we be reduced to a cypher, and our men in effect given to the caprice of those who have no sympathy with their situation? Can General Chandler give such a pledge? We think not. He himself may be bound by others' orders, whatever may be his disposition.

We are not insensible that the proposed arrangement is intended to save expense to the commonwealth. But we apprehend the United States are, and will be bound, by the national compact, to pay the expense of our defence, whether the militia is put under the controul of United States' officers, or commanded by their own.

If the United States have the injustice to refuse a claim so well founded, we can only say that the objects of the national compact are at an end.

But, shall his Excellency the Governor give up his prerogatives, and those of the Commonwealth, because the United States are unjust? On principles of economy, then, we cannot agree that the proposed arrangement has any advantage above any other; and should the United States be so unreasonable, as to refuse to let the militia defend those posts which are exclusively within their controul, unless the militia will be put under United States officers, and this, too, when it is acknowledged that the United States have no adequate force to defend those posts, we can only say, it is time they were surrendered into other hands.

The officers of the militia will not conceal the repugnance, which they have to bring themselves, and having their men exposed in posts, from their weakness wholly inadequate to any effectual defence. For these, and many other reasons, which might be mentioned, the undersigned respectfully remonstrate against the arrangement proposed by general orders of the twentieth day of September, and to give Major General Richardson a clear understanding of the repugnance which they

and the troops under their respective commands, feel, in submitting to be placed under the command of General Chandler, or any other officer of the United States; at the same time, pledging themselves to be ready for any danger or emergency, while they can be commanded by their own appropriate officers, the men of their choice.\*

*Portland, September, 24, 1814.*

\* This Remonstrance was signed by 5 Majors, 10 Captains, 8 Lieutenants, and 7 Ensigns.

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*Answer of the House of Representatives to the Governor's  
Speech, June, 1815.*

“ Whatever may be the fate of Europe, we may reasonably hope, that the peace of our country will not be hazarded by unnecessary interference in the disputes which agitate other nations. In ordinary wars, neutrals are a convenience to belligerents; and in the extraordinary conflicts which have so long made mutual destruction the order of the day in Europe, it is seldom that any of the contending powers seem to have been interested or inclined to involve the United States in hostilities. We should therefore presume that our country is in little danger of being forced into war; and that our national rulers, after the experience they have had of the difficulties, sacrifices and expenses attending war operations, will not again *volunteer* in the unprofitable contest. The task of repairing its past ravages upon the public and private resources of the country will be sufficiently sad and arduous.

“ We agree in the opinion, that as the war has been concluded without any stipulation relative to the impressment of sea-

men, it is to be presumed, the future exercise of the right, claimed by Great Britain on that subject, will no longer be considered a just cause of war ; and that, by the exclusion of foreign seamen from our service, it is in our power to prevent all future dispute or inconvenience arising from that source. It is easy to do justice to ourselves, and to conciliate it from others ; but if the last resort becomes necessary, it is wise to put our antagonist in the wrong. Such a course will produce mutual confidence and strength at home, and diminish the chance of contention abroad.

“ Although the avowed objects of the war have not been attained by the treaty, there was yet ample reason for the general joy which pervaded the country on the restoration of peace. The credit of the nation and its means of prosecuting the war were at an end ; the sufferings of individuals flowing from the failure of public credit and the suspension of business ; the universal feeling, that the salvation of the country depended on peace, rendered all question as to the actual provisions of the treaty trivial and insignificant. This state of the public feeling was in itself the most profound reproach on the authors of a war, whose evils were so wholly disproportionate to the avowed causes, that the latter were entirely forgotten in the pressure of the former. ”

“ In another view, the people had great reason to congratulate themselves on the conclusion of peace. War, under a free form of government, endangers civil liberty, while it disturbs or destroys individual prosperity and happiness. An unusual portion of power is then necessarily entrusted to executive and military officers ; the violation or overthrow of the land marks of civil rights are unnoticed or submitted to in the pressure of more interesting events ; illicit trade or legalized plunder takes place of lawful commerce ; and the passions of men, roused and heated in the rival work of destruction, offer the most favourable moment to those who entertain designs hostile to popular freedom.

“ The peace of no nation should be put in jeopardy upon

questions of a doubtful nature ; but under a popular and paternal government, which is presumed to be uninfluenced by ambitious policy, the evils of war should be encountered only upon the most obvious and unquestionable grounds of necessity. The strength and resources of the country will then act with union and effect ; and its reverses will be borne with manly and uncomplaining fortitude. Although we have gained by the treaty but little besides peace, yet we are informed by high authority, that the war was glorious and the peace honorable. By what course of reasoning, that position can be maintained, we are at a loss to comprehend. Such a declaration may satisfy some men ; but can afford no triumph to those who believe, that a very little more of such glory must have ruined the country. It is indeed true, that our armies have gathered laurels, and our naval warriors, by a series of splendid achievements, have raised a monument of glory to themselves, while they have established, by unquestionable proofs, the justness of that early policy of the federal government, which proposed to confide to a navy the protection of commerce and the defence of her maritime rights. For those achievements, and the advantageous light in which they exhibit to the world the American naval and military character, we are indebted to a few individuals of merit, and not to an administration, whose mistakes and improvidence have been but ill concealed, even behind the brilliant actions of the ocean, the lakes, and the Mississippi. *In our estimation, a war to be glorious must be founded in justice, and conducted with prudence, ability and success : and a peace, to be honorable, must have secured, by legitimate means, the objects of the war.*

“ We presume it will not be denied, that in the measures taken by the government of this Commonwealth, during the late war, it was intended faithfully to execute the duties enjoined by the Constitution, and to be governed by its principles, according to a sound construction thereof. The course adopted has been attended by the most favourable results ; and by the saving of great and useless expenses to the nation. It has

also received the decided approbation of the people, as expressed in their elections : and we may cheerfully leave to the more impartial judgment of future times to decide, whether the exposition of the principles of the Constitution, given by your Excellency and sanctioned by the other departments of this government, is not the most consistent with the purposes of that instrument, as well as the most favourable to civil liberty. If the necessities produced by a state of war seem at any time to urge a departure from fixed principles, *a degree of firmness and independence, which shall be unmoved by the suggestions of fear,* must be opposed at the threshold, by those whose duty it becomes ”

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*Answer of the Senate to the Governor's Speech, June, 1815.*

“ The termination of the late unhappy contest, between the government of the United States and Great Britain, affords to the Senate of this Commonwealth the most unfeigned joy, and demands the most sincere and hearty thanks of the people to the Almighty Disposer of events, by whose providence an end has been put to the miseries of war. And we congratulate your Excellency upon the present auspicious circumstances of our country, which are adapted to lighten the cares of government, and to give additional value to the recent pledge of confidence in your Excellency, which has been renewed by the people of this Commonwealth.

“ It would be a most pleasing and consoling prospect, if the state of the nations of Europe authorized the expectation, that this quarter of the globe was now destined permanently to reap the fruits of peace, from which she has been so long estranged; and to repair the desolation of war, by an amicable competition

with each other and with *our* country, in the pursuits of probity, industry and economy. But whatever may be the issue of the astonishing events, which agitate the old world, and confound human foresight, we unite with your Excellency, in the sincere and anxious hope, that the future prosperity of the people of these States may not be interrupted by a *needless* interference in the disputes and conflicts of other nations.

“ We should have derived great satisfaction from perceiving, in the late treaty of peace, express stipulations, relative to the avowed objects of the war, which might have been calculated forever to put at rest the controversies which led to that calamity. But we complain not of the national administration, for the omission of such stipulations. We presume they were unattainable; and we readily express our conviction, that, in acceding to the terms of the treaty, government consulted the best interests of the nation. We ardently hope, that the *good fortune*, which has enabled them to extricate the country and themselves from distress and embarrassment, will be accompanied by a sincere desire of a firm and protracted peace, and not by unfounded pretensions, which, by entangling our nation in the broils of foreign powers, may expose its vital interests to needless danger.

“ We agree with your Excellency in the sentiment, that it is a matter of indifference to the great body of the people, by whom the government is administered, if the conduct of the administration is calculated to promote justice and public tranquillity: And if the policy of our present rulers shall be adapted to retrieve the national prosperity, to establish public credit, to provide for the common defence, and prolong the blessings of peace, it will be the duty of every citizen, discarding all local and personal partialities, to co-operate, each in his own sphere, in efforts for the attainment of these important objects.

“ The universal joy, which the return of peace has infused into the public mind, is already justified by events at home and abroad. In our own beloved country, an enlivening impulse is already given to commerce and the peaceful arts. Industry

is again occupied, in all its branches, and the brow of care is smoothed by the sensation of prosperity. Public credit already revives; and may, by judicious fiscal arrangements, founded on unequivocal punctuality and good faith, be fully restored; and the rapid transition of the people, from depression, which follows the want of occupation, to the animation which is inspired by the pursuit and expectation of competency, demonstrates that peace is the natural and favorite condition of the American citizen.

“In the systems of some statesmen, it is an axiom, that occasional wars are indispensable to develop the power, organize the resources, preserve the military habits, and rouse the dormant energies of a peaceful community. If among our men of influence there should be any who cherish this theory, we trust, that the glory acquired by our navy and army, the capacity and determination, manifested by this people, to defend their soil, and the facility with which the citizen was transformed into the soldier, when the occasion required it, will reconcile them to the conclusion, that the present age, at least, will be in no danger of degeneracy, through want of the renewed excitement of open war.

“That, in a confederacy newly organized, upon the first experiment of a trying and unexpected emergency, the minds of men should be agitated by collisions of opinion, relative to the reciprocal duties of the national and State governments, ought not to be a matter of surprise. When the ferment, arising in such a state of affairs, shall have subsided, the wise and good of all parties, who feel an interest in the union and welfare of their country, will calmly review the grounds and principles of their creeds, and finally adhere to such expositions of the Constitution, as are warranted by its true meaning and design.”

*Address of the Convention to the people of Massachusetts.*

## FELLOW CITIZENS :

It was provided in the Constitution, established in the year one thousand seven hundred and eighty, that a revision might be had, after an experiment of fifteen years. When these years had elapsed, the people declared that they were satisfied ; and that they desired no change. The same satisfaction was manifested during the next twenty five years, and would probably have still continued, if the separation of *Maine* from *Massachusetts*, had not made it proper to take the opinion of the people, on the expediency of calling a *Convention*.

It appeared that not one *fourth part* of the qualified voters in the State, saw fit to express any opinion ; and that of the eighteen thousand three hundred and forty nine votes given in, six thousand five hundred and ninety three, were *against* revision.

We have inferred from these facts, that you did not desire any *important* and *fundamental changes*, in your frame of Government ; and this consideration has had its just influence on our deliberations, in revising every part of the Constitution, which we were required to do, by the words of the law, under which we are assembled.

We have kept in view, that the will of the majority can alone determine what the Powers of Government shall be, and also the manner in which these powers shall be exercised ; and that it is, consequently, your *exclusive* right to decide, whether all, or any of the amendments, which we think expedient, shall be adopted, or rejected.

In the performance of our duty, we have been mindful of the character of MASSACHUSETTS ; and, that the profit of *experience* is justly valued, and that the precious right of *self government* is

well understood, in this community. Perfect unanimity is not to be expected in a numerous assembly. Whatever difference of opinion may have occurred, as to expediency, there has been no difference as to the ultimate object, viz: the public security and welfare. If we have not all agreed in every measure which we recommend, we are satisfied, that natural and honest difference of opinion, must ever prevent, in a like numerous meeting, greater accordance than has prevailed among us.

Every proposed change or amendment has been patiently and fairly examined, and has been decided upon, with the utmost care and solicitude to do right.

We have the fullest confidence that you will take these things into view, when you perform the serious duty of deciding, for yourselves, and for successive generations, on the result of our efforts.

In framing a Constitution, or revising one, for an extensive Commonwealth, in which various interests are comprised, nothing more can be hoped for, than to establish *general rules*, adapted to secure the greatest good for the whole society. The revised Constitution, which we now respectfully submit to you, can only be considered as *one general LAW*, composed of connected, and dependent parts. If any one part, considered by itself, seem not to be the best that could be, its merit, and the justice of its claim to approbation can be known only by its connexion in the system, to which it appertains.

With these remarks, we beg leave to state the Amendments which we have agreed on, and our reasons for having done so.

#### THE DECLARATION OF RIGHTS.

It is known to us, that the EMINENT MEN who framed the Constitution, under which we have lived, bestowed on the only article, which has occasioned much discussion among us, the greatest attention. They appear to have considered RELIGION in a two fold view; *first*, as directory to every rational being, in the duties which he owes to the CREATOR OF THE UNIVERSE; but leaving to every one, to decide for himself, on the man-

ner in which he shall render his homage, avow his dependence, express his gratitude, and acknowledge his accountability ; and, *secondly*, as a **SOCIAL DUTY**, prescribing rules to men, in their intercourse with each other, as members of the same family. They held social worship to be most intimately connected with social welfare. They believed moral excellence, to be no less the effect of example, and of habit, than of precept. They seem to have been convinced, that in proportion as the members of civil society, are impressed with reverence for the social rules, contained in **REVEALED RELIGION**, will they be faithful in performing those obligations, on which political happiness depends. Upon such principles they rested those provisions which require an habitual observance of the **SABBATH**, and the support of *public teachers* in the sacred offices of that day. In all these sentiments we do most heartily concur.

But we have thought it necessary to propose some changes in the *third article*.

The public sentiment on that part of the article, which enjoins on the Legislature to require attendance on public worship, has long been definitely expressed, and is well understood ; and we, therefore, propose that so much of this article as relates to this subject, should be annulled.

We are also of opinion, that members of all religious societies ought to have the right and privilege, to join, and worship with, any other society of the same denomination ; as they now have the right to join themselves to any society of a different denomination from that with which they have worshipped.

Furthermore, that the power, and duty, of the Legislature to require provision to be made for the institution of public worship, and for the support and maintenance of public teachers, shall extend and be applied equally to societies which are unincorporated, as to those which are.

We recommend also, a provision, that all taxes assessed for the support of public worship, upon real estate, of any non resident proprietor shall be applied towards the support of public worship, in the town, precinct, or parish by which such tax-

es are assessed ; unless such proprietor shall be resident within the Commonwealth, and shall be of a different denomination of christians from that of the town, precinct, or parish, by which such taxes are assessed.

We propose further to amend the Declaration of Rights so as to provide, that persons on trial for crimes may be heard by themselves, and counsel ; instead of themselves or counsel as the article now stands.

We now propose another amendment, that no person shall suffer imprisonment, or other ignominious punishment, on official information ; nor unless on indictment by a Grand Jury ; except in cases expressly provided for by law. This amendment takes from public prosecuters the common law rights to arraign, of their own authority, any citizen for misdemeanors or crimes without the intervention of a Grand Jury, representing the people of each county.

#### ALTERATION OF THE POLITICAL YEAR.

We recommend that there should be ordinarily but one session of the General Court in a year. We believe that more is not necessary ; that the expense of legislation will be diminished ; and that it will be convenient to bring the common and political year into conformity.

A necessary consequence of this change, is an alteration of the time of holding elections ; the day, most convenient for this purpose, in the opinion of the Convention, is the second Monday of November. We propose that all the elections of State Officers, which are to be made by the people, shall be made on that day. This provision will not lessen the number of days, which, by our present Constitution, must be devoted to elections. It will, we believe, induce a fuller attendance of the people, and a more certain expression of the public voice, in the important duty of choosing public officers.

#### ELECTORS.

We are satisfied that the qualifications as now required in Electors, produce some inconveniences, and are liable to some

After a patient investigation of this subject, we have concluded that a residence of twelve months within the State, and of six months within the town, or district, next preceding an election, and payment of a State or County Tax therein, constitute an uniform and intelligible rule, as to the right of voting ; and we propose the adoption of this rule, in all elections of State Officers, and the abolition of all other qualifications now required.

We believe that the change which we recommend in this respect will relieve Selectmen from much perplexity, and will enable them easily to distinguish between those who have a right to vote, and those who have not.

#### THE SENATE.

After the most careful and faithful examination of the principles of the government, we have not found it expedient to change the basis on which the Senate was placed, by the Constitution we have revised. It is admitted that the legislative power should be given to two distinct assemblies, each having an absolute negative on the other.

In considering this subject, we have distinguished between the people, of whom we are ourselves a part, and those who may be chosen to legislate. It is the people who are to be secured in their rights and privileges, by a Constitution, and not their public servants. This object can only be effected by a clear and permanent limitation of the power which is to be exercised.

The people may impart whatsoever power they see fit. Their security consists in doing this in such manner, that the trust which they create may not be abused, nor the public welfare betrayed. It is therefore wise to provide for frequent elections ; and to require certain qualifications in the elected ; and the concurrence of different legislative branches on all public laws ; and so to constitute those branches, as that no act shall obtain their joint approbation, which is not intended to promote the common welfare.

All free governments of modern times, have found it indis-

pensable, not only to have two distinct legislative branches, but to rest them on such different foundations, as to preclude, as much as possible, all such dangerous sympathy and union, as may govern and direct the will of a single assembly.

If the number of inhabitants be the rule by which the members of the two branches are to be apportioned, and all are to be chosen at the same time, and by the same electors, we think that the safety which the Constitution is intended to effect, may not always be obtained. If an election should take place when very strong and general excitements are felt, (and from such, no human society can be always exempt) there would be little to choose between placing Legislators so elected in the same, or in two different assemblies.

We repeat, that the people's agents ought ever to be distinguished, in settling a frame of government, from the people themselves ; and that no more should be hazarded on the manner in which power may be used, than necessarily must be, to give power enough to do that which should be done.

The mode in which the two branches should be constituted, to secure the check which we consider to be so highly important, is the only point as to the Senate, which has been much discussed among us.

In some of the States in our national confederacy, elections for two or more years have been adopted, as a security for the independence and fidelity of Senators. In others of them, a Senator must have a large landed estate ; in others such an estate is required both in the elector, and the Senator.

The basis adopted in the Constitution of this State is, that Senators shall be apportioned throughout the State, according to the amount of public taxes paid in Districts of the State. That is, that the liability to be taxed, shall be accompanied by the right to be represented. We have not heard that this principle has been complained of by the people ; nor do we believe it is justly exceptionable in itself ; on the contrary, the experience of forty years entitles it to the most entire respect and confidence. We have not thought it expedient, nor do we be-

heve that you expected of us to make any fundamental change in this department. We have done no more than to make the necessary provision as to Districts, and to fix the number of Senators. We recommend that the number should be thirty six ; this number can be more conveniently distributed than any other throughout the State. A smaller number is not sufficient to perform the duty required of the Senate ; nor should the power of negativing the will of the House of Representatives, be confided in a smaller number.

#### THE HOUSE OF REPRESENTATIVES.

We have found great difficulty in amending the Representative system, in a satisfactory manner. We have all agreed that whether the Representatives are few or many, the people ought to be equally represented in this branch. It was the general opinion, that the number should be reduced ; that town representation should be preserved ; that payment should be made from the State Treasury. Such mode of payment has been repeatedly voted in the House, and on one occasion it obtained the concurrence of the Senate. There is reason to believe that it will become the established mode of payment. But if it be so, and the present system of representation continues, the expense must soon become an insupportable burthen. A House composed of one hundred or one hundred and fifty members may be fully sufficient for all purposes of legislation ; but there could not be a reduction to such number, unless the State be divided into Districts, and consequently representation by towns be given up.

We endeavoured, in the system which we submit to you—1. To reduce the number—2. To preserve the privileges of town representation—3. To provide for payment out of the State Treasury—4. To insure a general and constant attendance of members throughout the session.

To accomplish these objects, we recommend that twelve hundred Inhabitants should have one Representative, and that twenty four hundred be the mean increasing number for every additional Representative.

But as nearly one half of the towns in the State average about eight hundred Inhabitants, we propose that these towns should each choose a Representative every other year, and that they should be divided by the Legislature into two classes for this purpose ; one or the other of which classes will choose every year.

To show the application of this system ; about seventy four Representatives will come every year from the classed towns, which will be one Representative for every 1632 Inhabitants in all the classed towns ; from those towns containing between twelve hundred and twenty four hundred will come one Representative for every 1650 Inhabitants ; from those towns containing more than thirty six hundred Inhabitants will come one Representative for every 2400 Inhabitants. These calculations (necessarily taken from the census of the year 1810) are not precisely accurate ; but they are sufficiently so to show the effect of the system.

It is apparent that towns having between twelve hundred and thirty six hundred Inhabitants, can send but one Representative ; and that there will be large fractions in some of these towns. Perfect equality is not attainable under any system. There are fewer inequalities in the proposed system than in any which we have been able to imagine, if the four objects which we have mentioned are to be provided for ; and we believe that the progress of population will constantly diminish those inequalities which may now exist.

We propose that in those years in which the valuation is settled, every town shall be represented.

By the proposed system the number of Representatives will be about two hundred and sixty. We have thought it proper to offer to you further provisions, intended to prevent an increase in the number of Representatives, over two hundred and seventy five, in any future time. This may easily be done by empowering the Legislature to augment the ratio, after successive enumerations of the inhabitants. There was very little difference of opinion among us, on the expediency of pro-

viding, that no town shall be hereafter incorporated with the right of sending a Representative, unless it contain twenty four hundred inhabitants.

If you are not willing to District the Commonwealth to elect members of the House ; if you are not willing to continue the present mode of numerous representation, with the liability to the enormous expense which would accrue from paying out of the public Treasury, some such system as we propose must be resorted to. We will not say, that this is the best that could be ; but we may justly say, that we have spared no exertion to form, and to present to you, the best which we could devise.

#### LIEUTENANT GOVERNOR AND COUNCIL.

We recommend that the *Lieutenant Governor* should have the like qualifications as are required in the *Chief Magistrate*, for the obvious reason, that the duties of the Executive Department may devolve on him.

During the last fifteen years, the *Counsellors* have been chosen by the Legislature from the people at large, after election, and resignation, from among those citizens who were returned as *Senators*, and *Counsellors*. Experience has shewn no inconvenience in this mode of election ; and we have deemed it to be proper, so to amend the Constitution, as to establish this mode. This change is, in effect, nothing more than doing away the useless form of choosing from the Senate. We did not prefer to elect *Counsellors* by a *general ticket*, because we believe that there would be some difficulty in *agreeing on candidates* ; and that the electors, throughout the State, would not have such knowledge of candidates, as would enable them to exercise the right of suffrage in a manner acceptable to themselves. We did not prefer to choose *Counsellors* in *Districts*, because we were of opinion, that it would not be agreeable to the citizens to be associated to exercise the right of suffrage on this occasion, as they would not be so united on any other : And that it would be an useless labor and expense to form such districts, and an unnecessary burden on the people to meet and vote in such districts.

We conceive, that a choice by the Legislature, is *a choice by the people*, through the agency of their public servants: That Counsellors so chosen, and who enter on the duties, assigned to them, as soon as they are chosen, will be more independent of the Chief Magistrate, and more independent of those who desire executive favor, than if chosen in any other mode, though not less responsible to the people, because elected by the joint ballot of the two houses. We have all concurred in the opinion, that more than seven Counsellors are not necessary.

#### THE JUDICIARY.

In the Judicial Department, we think two amendments are expedient.

An *independent Judiciary* is a fundamental principle of a *free government*. We cannot so well express our sentiments, on this important subject, as by referring to the twenty ninth article of the Declaration of Rights.

It is there said, "*It is the right of every citizen to be tried by Judges, as free, impartial, and independent, as the lot of humanity will permit;*" and therefore, "*that Judges should hold their offices as long as they behave themselves well.*"

The Judges have not such tenure of office, unless the Constitution be understood to mean, that they are not liable to removal until they have an opportunity to show that the alleged causes for removal are unfounded and insufficient. The Legislature, in removing a Judge exercises not only a discretionary but a Judicial power. Judgment cannot justly be given, in any case, affecting any interest, even of the humblest citizen, unless the cause has been first stated, and it has been permitted to him to show, what he considers to be the truth of his case.

It cannot, then, be consistent with the plainest principles of justice, that the public functions of a citizen, and perhaps his reputation, may be taken from him without any other notice from those who may exercise such power, than that they have exercised it, and that his relation to the public has ceased.

In whatever estimation we may hold the rights and interests,

of any individual, who sustains a high Judicial office, it is rather the public right, and interest, which move us to propose the subjoined amendment.

The people can have no dearer interests of any thing pertaining to government, than in the interpretation of the laws; and in the administration of justice, affecting life, liberty, property and character. The constitution, with the explanatory amendment, which we propose, secures to the people the unquestionable right of removing the unfit, the unworthy and the corrupt; while it secures to them the no less valuable right of preserving to themselves, the able, the upright, and the independent magistrate.

We propose, therefore, so to amend the Constitution as to require, that no judicial officer shall be removed from office, until the alleged causes of removal are stated on the records of the Legislature; nor until the individual, thereby affected, shall have had an opportunity to be heard.

In the second article of the third chapter it is provided; that each branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinion of the Judges, on important questions of law, and upon solemn occasions. We think this provision ought not to be a part of the Constitution; because, first, each department ought to act on its own responsibility. Second, Judges may be called on to give opinions on subjects, which may afterwards be drawn into Judicial examination before them by contending parties. Third, no opinion ought to be formed, and expressed, by any Judicial officer, affecting the interest of any citizen, but upon full hearing, according to law. Fourth, because if the question proposed, should be of a public nature, it will be likely to partake of a political character; and it highly interests the people that Judicial officers should not be involved in political or party discussions.

We, therefore, recommend that this second article, should be annulled.

## SECRETARY AND TREASURER.

We recommend that the Executive should be empowered to fill vacancies, occurring in these departments, during the recess of the General Court, until a constitutional election is made.

## MILITIA.

We propose that the office of Commissary General should not be filled by legislative election; nor in any other manner, excepting as the Legislature may, by law, provide; if such an officer should, hereafter be necessary.

As minors are required, by law, to perform military duty, and have consequently a direct interest in the qualifications for office, in those whom they are holden to obey, the want of discretion, which is legally affirmed of minors in other cases, is not applicable to this; and we have therefore, proposed an amendment, which authorizes those minors, who are enrolled in the militia, to vote in the choice of officers.

To diminish expense in the militia service, and to secure able and faithful performance of duty therein, we think it expedient to empower the Legislature, to provide, by law, for the removal of officers in certain cases.

## OATHS OF OFFICE.

We recommend that the oath of abjuration be abolished. However proper this oath may have been, while this country was maintaining its conflict for independence, with the mother country, the success of that conflict, and the lapse of time, have rendered that oath inapplicable to our condition.

We have agreed that the declaration of belief in the christian religion, ought not to be required, in future; because we do not think the assuming of civil office, a suitable occasion for so declaring; and because it is implied, that every man, who is selected for office, in this community, must have such sentiments of religious duty, as relate to his fitness for the place, to which he is called.

## DISQUALIFICATIONS FOR OFFICE.

Some amendments are recommended in this division of the

Constitution, founded on one, or other, of these principles, viz: First, to prevent the exercise, by the same individual, of those powers of government, which the Constitution ordains to be kept separate. Secondly, to preserve that distinction between the National and State governments, which the principle, on which these governments are relatively founded, require.

#### NOTARIES PUBLIC.

No difference of opinion occurred, on the expediency of transferring the appointment of these officers, from the Legislative to the Executive department.

#### HARVARD UNIVERSITY.

We have thought it proper to inquire into the present state of this ancient and respectable institution; and have done this by the agency of a fully competent committee. We have made this inquiry, because this seminary has experienced the patronage of government from its earliest foundation; and was justly held to be worthy of appropriate constitutional provisions by our predecessors. It appears that the powers conferred on Harvard University, have always been exercised, and that the duties required of it have always been performed, with a sincere, and ardent desire, to promote the diffusion of useful knowledge; and to establish and preserve an honorable reputation in literature, and morals in this community.

We have however thought it proper, with the consent and approbation of the corporation, and overseers of the University, to propose to you, that the Constitution should be so amended as to make ministers of the gospel, of any denomination, eligible to the office of Overseers.

For the further illustration of this interesting subject, we beg leave to refer to the report of the committee, which was read in Convention, and ordered to be published.

#### INCORPORATION OF CITIES.

It appeared to us, that it would be convenient, and proper, that towns containing more than twelve thousand inhabitants, should, on application, of the qualified voters, by petition to the

Legislature, be incorporated with municipal, or city powers and privileges. Without such powers and privileges, the inhabitants of such towns must continue to vote in one meeting, however numerous they may become. This is already found to be an inconvenience in two towns, for the removal of which, provision ought to be made. Under the limitations and restrictions, which we have provided, we can see no reason why the power to incorporate, should not be vested in the Legislature. And we, therefore, recommend an alteration of the Constitution, so as to effect this purpose.

#### PROVISION FOR FUTURE AMENDMENTS.

It may be necessary that specific amendments of the Constitution should hereafter be made. The preparatory measures in assembling a Convention, and the necessary expense of such an assembly are obstacles of some magnitude, to obtaining amendments through such means ; we propose that whenever two thirds of the House of Representatives, and a majority of the Senate in two successive Legislatures, shall determine that any specific amendment of the Constitution is expedient, such proposed amendment shall be submitted to the people ; and if accepted by the people, the Constitution shall be amended accordingly. We believe that the Constitution will be sufficiently guarded from inexpedient alterations, while all those which are found to be necessary, will be duly considered, and may be obtained with comparatively little expense.

#### MODE OF SUBMITTING AMENDMENTS.

We have determined that it is not expedient to redraft the Constitution ; we believe it would be more acceptable to you, to see the proposed amendments separately. We therefore send them to you in this manner ; and numbered successively ; and accompanied by a form, in which assent or dissent may be easily expressed and made known.

You will perceive that if the amendments are adopted, we propose that the amended Constitution shall go into operation on the fourth day of July in the present year ; and that the first

elections will take place on the second Monday of November next ; and that the State Officers then chosen will commence their official duties on the first Wednesday of January, next following.

After due deliberation, we have decided, that it is most expedient and proper, that a large committee of the Convention shall be in session on the fourth Wednesday of May next, to receive the returns from the several towns ; and that this committee shall examine the returns, and certify the result, to the Governor and to the Legislature ; which will be in session on and after the last Wednesday of May next. The Legislature will then declare to the people, in such manner as the Legislature may see fit, the will of the People on the amendments which we submit to them.

We think this, Fellow Citizens, a proper occasion to allude to those grateful sentiments which we feel, in common with yourselves, for the blessings which have been experienced in this highly favoured community.

That pious, virtuous, well informed men should have been inspired to seek a home on these shores, and should have been supported in all the perils inseparable from their enterprise ; that their intelligence and manly virtues should have been transmitted through successive generations to descendants who dared to will and to effect a termination of all political connexion with a powerful kingdom ; that these descendants should have been able, in the midst of war, and of civil dissension, to establish a republic so wisely balanced as to accomplish every rational and benificent purpose which they had in view, are subjects which come to our recollection at this time, with peculiar interest. We do feel, and it becomes us to acknowledge, that we are a favored and a happy people, in our national and domestic relations. And, especially, that while so much of the civilized world is struggling with serious and fearful difficulties, it is permitted to this community, peaceably to assemble, and to deliberate and decide on the best means of securing and perpetuating social benefits and unquestioned rights.

Among the duties of gratitude, is that of showing that we are worthy of these blessings, by conscientiously preserving them; among the obligations which are inseparably connected with these blessings, is that of transmitting them to those who are to come, as faithfully as they have been guarded for us.

*In Convention, Jan. 9, 1821....Read and Accepted.*

ISAAC PARKER, *President.*

A TRUE COPY.

ATTEST,

BENJ. POLLARD, *Secretary.*

c L

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